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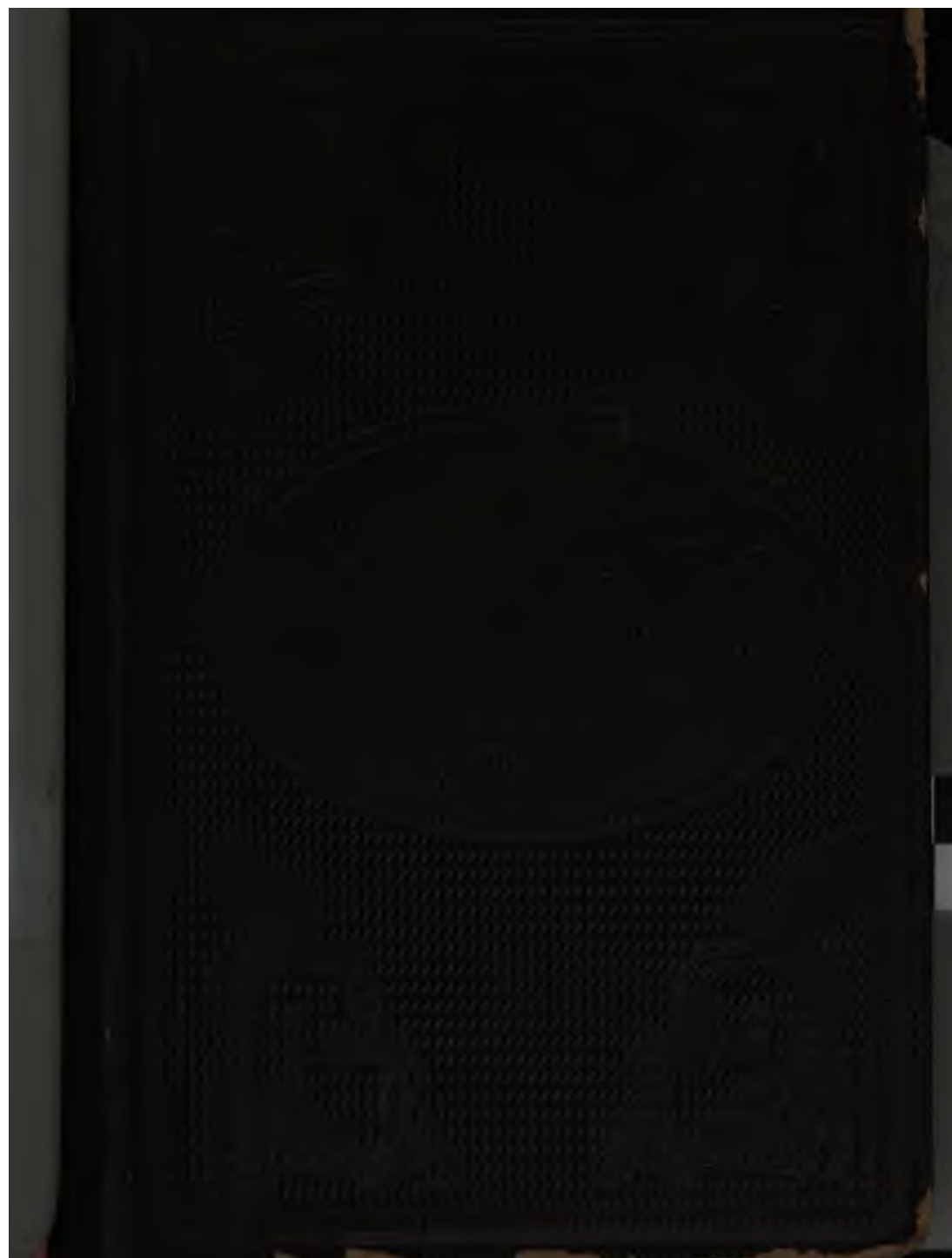
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5690.22



Joseph W. H. H. H.  
June 6. 1860

This is all subscribed  
by Act of June 30/64



UNRECEIVED

Third District, Mass.  
Boston, June 8th, 1863.

The following Circular was received at this office after a portion of the income blanks had been distributed and did not accompany the same. Tax-payers can proceed to make up income returns in accordance with the suggestions of the circular.

JAMES RITCHIE,  
Assessor 3d Mass. District.

**CIRCULAR.**

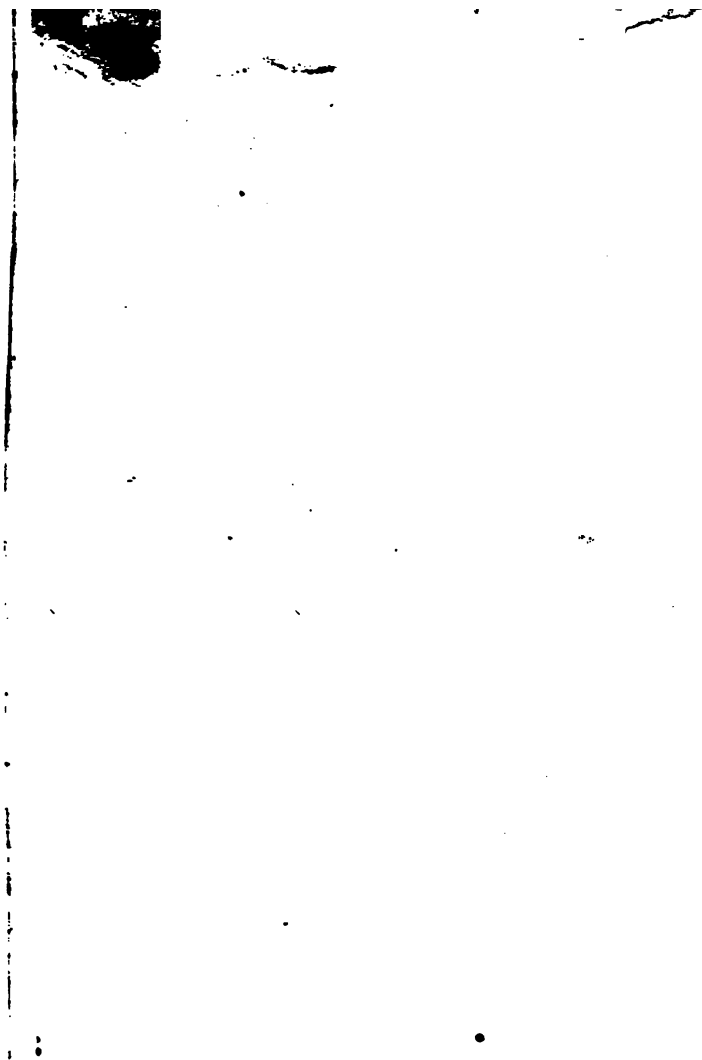
TREASURY DEPARTMENT,  
OFFICE OF INTERNAL REVENUE,  
Washington, May 16th, 1863.

Assessors and Assistant Assessors will take notice, that the specific statement of the several subjects of tax, on the second and third pages of Form No. 24, are intended merely for the convenience of the tax-payer, with a view to facilitate the ascertainment by him of the tax which he is liable to pay. It is not to be regarded as a part of the return to be made by him, nor must it be exhibited to the inspection of any one. The income, and rate of tax being ascertained by the taxpayer, in the mode indicated, or any other proposed by him, and equally likely to result in a true statement of income subject to tax, the return may be made in gross, as indicated on page 4.

This Office does not propose to inquire into the kind or number of any man's investments.

In distributing Form No. 24, for use, this explanation should accompany the distribution.

June 9—1863 JOSEPH J. LEWIS, Commissioner.



In

186

Stamps 278. 186

24. 213.

Gold branch

Lager

*all superseded by l  
of June 30/64*  
© A HAND-BOOK

OF

# THE U. S. TAX LAW,

(APPROVED JULY 1, 1862,)

WITH

ALL THE AMENDMENTS,

To March 4, 1863:

COMPRISING THE

DECISIONS OF THE COMMISSIONER OF INTERNAL REVENUE,

TOGETHER WITH

COPIOUS NOTES AND EXPLANATIONS.

FOR THE USE OF TAX-PAYERS OF EVERY CLASS, AND THE OFFICERS  
OF THE REVENUE OF ALL THE STATES AND TERRITORIES.

COMPILED FROM OFFICIAL SOURCES.

BY

AMASA A. REDFIELD,  
COUNSELLOR AT LAW.

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THIRD EDITION.

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NEW YORK:

JOHN S. VOORHIES, 20 NASSAU STREET.

BAKER & GODWIN, 1 SPRUCE STREET.

1863.

Econ 5690, 22

1871, Feb. 1.

Gift of  
Sam'l. A. Green, M.D.  
of Boston.

(Feb. 26. 1851.)

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Entered, according to Act of Congress, in the year 1868, by

AMASA A. REDFIELD,

In the Clerk's Office of the District Court of the United States for the Southern  
District of New York.

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BAKER & GODWIN, PRINTERS,

1 SPRUCE STREET, N. Y.

## PREFACE.

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THE object proposed in this volume is to present the tax-payer with a convenient and reliable Handbook of the Internal Revenue Law, passed at the second session of the Thirty-seventh Congress, and as subsequently amended.

It is presented to the public solely as a handbook, and can make no claim to being an exhaustive treatise upon the statute.

It is confidently believed, however, that the statements of the provisions of the statute are absolutely reliable, and that the arrangement of the work in the form of an Index or Digest will add to its usefulness.

Where the compiler has thought it necessary, he has volunteered opinions of his own, but with caution,—choosing rather to rely upon such decisions and regulations as have been issued by the Commissioner of Internal Revenue. In addition to these regular decisions, the Commissioner has given written answers to a great number of questions put to him by tax-payers, which have appeared from time to time in the current newspapers. These are quite as authoritative as the regular decisions, and are incorporated in this volume.

It was attempted, for uniformity, and for convenience of reference, if necessary, to cite but one paper—the *New York Daily Transcript*—as containing these decisions; but where that paper has failed to publish them, other papers, in which first noticed, have been cited.

The compiler would deem it a favor, if any errors which may be noticed in this volume, or any additions of value, could be suggested to him for a revised edition.

NEW YORK, March 23, 1863.

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### PREFACE TO THIRD EDITION.

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IN presenting to the public a third edition of this manual, the compiler takes the opportunity to explain that the latest decisions and regulations of the Bureau are incorporated in each successive edition. He is, also, in active correspondence with many of the assessors and collectors of the revenue, and learns from them more fully the practical working of the law; so that, while it is attempted to state clearly the requirements of the *statute*, the practice and procedure of its enforcement are also given.

Some of the peculiar features of the present edition are the references in the body of the book to the page in the Appendix on which the amendatory provisions may be found; the enlargement of the Index, and the insertion of the late and important regulations and decisions of Com'r Lewis. In this connection, special attention is called to chapters on the income duty, page 180, and to the new scale of stamp-duties on promissory notes on page 311.

The success which has attended the work encourages the belief that it has been found generally useful and trustworthy, and, in its convenience for reference and greater amount of information, to excel all others now before the public.

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*Repealed June 30/64*

THE

# U. S. EXCISE LAW.

*of July 1/62*

*Repealed June 30/64*

## BOOK I.—GENERAL PROVISIONS.

### CHAPTER I. THE OFFICERS OF THE REVENUE.

#### II. THE ASSESSMENT.

#### III. THE COLLECTION OF THE TAX.

#### IV. ALLOWANCE AND DRAWBACK.

#### V. MISCELLANEOUS PROVISIONS.

### CHAPTER I.

#### THE OFFICERS OF THE REVENUE.

- ARTICLE 1.** The commissioner of internal revenue.  
2. The deputy commissioner.  
3. The cashier of internal duties.  
4. The assessors and their assistants.  
5. Collectors and their deputies.  
6. Inspectors of spirits.  
7. Inspectors of tobacco.  
8. Revenue agents.

#### ARTICLE 1.—THE COMMISSIONER OF INTERNAL REVENUE.

A bureau of internal revenue, with a commissioner at a salary of \$4,000, is created in the treasury department. The commissioner is charged with preparing instructions, regulations, directions, forms, stamps, and licenses, and distributing them to the local officers; and his instructions and directions are binding upon the assessors and collectors, their assistants and deputies, in the performance of their duty under the act. He is required to give a bond, to be approved by the secretary and first controller of the treasury, in a sum not less than \$100,000.

The present incumbent of the office is the Hon. Joseph J. Lewis, of Pennsylvania. The official regulations and decisions of the late Commissioner Boutwell, of Massachusetts, as well as of the present commissioner, are incorporated in this volume.

The complicated system of internal taxation, inaugurated by this act, being new and untried in this country, a large discretion is given to the commissioner in the superintendence of the bureau and the enforcement of the law. The decisions of the commissioner, therefore, though not conclusive, are of importance as indicating, at least, the probable requirements of the Government.

#### ARTICLE 2.—THE DEPUTY COMMISSIONER.

By the amendatory act of March 3, 1863, the office of deputy commissioner is created, with a salary of \$2,500. The deputy commissioner acts in the absence of the commissioner, and is charged with such duties as the secretary of the treasury may prescribe. (§ 19, p. 214.)

#### ARTICLE 3.—CASHIER OF INTERNAL DUTIES.

A cashier of the internal duties is provided for by the amendatory act, at a salary of \$2,500. It is his duty to take charge of the moneys received in the office of the commissioner of internal revenue, and perform such duties as may be assigned to his office by the commissioner. Before entering upon his duties as cashier he must give a bond, with sufficient sureties, to be approved by the secretary of the treasury and by the solicitor, that he will faithfully account for all the moneys, or other articles of value, belonging to the United States, which may come into his hands, and perform all the duties enjoined upon his office, according to law and regulations, as aforesaid; which bond is to be deposited with the first controller of the treasury. (*Act of March 3, '63, § 21, p. 215.*)

#### ARTICLE 4.—ASSESSORS AND ASSISTANTS.

The area of the country is divided into collection districts by the president (corresponding, in most cases, to the congressional districts), for each of which he nominates an assessor and a collector.

The assessor subdivides the collection district into assessment districts, for each of which he appoints an assistant.

The assessor and assistant assessors are required to take oath of office before a collector, or some competent magistrate, delivering a certificate of such oath to the collector. The penalty for not taking the oath is \$100 (§ 3). The compensation of assessors and assistant assessors is stated in the amendatory act, in the Appendix, page 222.

#### ARTICLE 5.—COLLECTORS AND DEPUTIES.

A collector, before entering upon the duties of his office, is required to give a bond for such amount as the commissioner may require, with at least five sureties, for the faithful performance of the duties of his office; the bond to be filed with the first controller of the treasury. (§ 4.)

The collector appoints as many deputies as he thinks proper, who are to be compensated by himself. He is responsible for their acts, and may require bonds of them. (§ 5.)

*The compensation of collectors* is four per cent upon the first \$100,000, and two per cent upon all sums above that amount, such commissions to be computed upon the amounts by them respectively paid over to the treasury; but the whole compensation must never exceed \$10,000 per annum, except in collection districts embracing more than one congressional district. (§ 34.)

For the amendment relating to collectors' compensation, see the amendatory act, in the Appendix, pages 231, 232.

The proviso of § 17 of the act of March 3 does not, we think, give collectors the option to take \$10,000 gross, or \$5,000 net. At the end of the year the collector may make out his bill of disbursements, and this the government pays, and gives \$5,000 besides as salary. It does not give a choice of paying all expenses and receiving \$10,000. If the disbursements exceed \$5,000, the excess comes out of the \$5,000 salary.

*In case of sickness* or temporary disability, the collector may appoint one of his deputies to perform his duties, provided the secretary of the treasury is immediately informed and approves thereof. The responsibility of the collector and his sureties are not, however, affected thereby. (§ 29.)

*In case of the death*, resignation, or removal of the collector, his deputies continue to act until a successor is appointed; and the deputy longest in service discharges, in the meantime, the duties of the collector. Of two or more deputies of the same date of appointment, the one residing nearest the residence of the collector when the vacancy occurred must act.

The remedy for official acts and defaults of such deputy may be had against the collector; and the collector, his heirs, or representatives, may indemnify themselves on the deputy's bond to the collector. (§ 30.)

*Extortion.*—A collector or his deputy who is guilty of any extortion or willful oppression, under color of his office, or knowingly demands greater sums than are authorized by the act, is liable to pay a sum not exceeding double the amount of damages accruing to the party injured, besides being dismissed from office and disqualified from again holding it. The damages are to be recovered by the injured party for his own use, with costs of suit. (§ 26.) For duty of collectors in their dealings with the department, see chapter iii., section 8.

#### ARTICLE 6.—INSPECTORS OF SPIRITS.

The collectors are authorized to appoint inspectors of spirits, whose fees (fixed by the commissioner) are to be paid by the owner of the liquor inspected. (§ 43.)

#### ARTICLE 7.—INSPECTORS OF TOBACCO.

The collectors, where necessary, may appoint one or more inspectors of manufactured tobacco, who are to take oath faithfully to perform their duties as the commissioner of internal revenue may prescribe. The fees of inspection are to be paid by the owner of the tobacco. (*Act of March 3, '63*, § 34, p. 264.)

#### ARTICLE 8.—REVENUE AGENTS.

The secretary of the treasury may appoint not more than three revenue agents, whose duties, under the direction of the secretary, are to aid in the prevention, detection, and punishment of frauds upon the revenue. Their compensation is not to exceed \$2,000 a year, in the discretion of the secretary. (*Act of March 3, '63*, § 20, p. 214.)

*The officers* appointed under the excise act, except in States and Territories otherwise provided for, are authorized to perform all duties relating to the assessment and collection of the direct tax imposed by the act of August 5, 1861, or any direct tax hereafter enacted, where such tax has not been assumed by the State. (§ 38.)

## CHAPTER II.

## THE ASSESSMENT.

- ARTICLE 1. Tax payer to make lists of property.  
2. Lists verified by officer—assistant assessor's lists.  
3. Where property is assessed.  
4. General lists for public inspection.  
5. Appeals from assistant assessor's valuation.  
6. Corrected general lists.

## ARTICLE 1.—TAX PAYER TO MAKE LISTS OF PROPERTY.

The first duty lies with the tax payer. It is the duty of every person, partnership, and corporation, liable to any tax under the statute, except as stated below, to make a yearly list or return to the assistant assessor of the district where located, setting forth—

1. The amount of annual income.
2. The articles charged with a special duty or tax.
3. The quantity of goods made or sold, and charged with an ad valorem duty.
4. The several rates, and also the aggregate amount, of the duties payable on such income, articles, manufactures, and sales.

These lists are to be made out and delivered to the assistant assessor on or before the first Monday of May of each year. (§ 6.)

The phrase, "where located," in section 6 of the excise law, is understood to refer to the subjects of taxation mentioned in that section.

In all cases goods, wares, and merchandise are to be assessed in the district or division where such goods, wares, or merchandise are produced or manufactured. (Com'r Boutw., *N. Y. Trib.*, Oct. 20, '62.)

Most of the lists required by the statute are to be returned oftener than once a year,—such as manufacturers' returns, which are to be rendered each month (§ 68); and auctioneers' returns of sales, which are also to be rendered monthly (§ 76). Distillers are required to render tri-monthly accounts to the collector of the quantity of spirits distilled and sold by them. Brewers make monthly returns. Returns of advertisements



are to be made quarterly; and those of banks and insurance companies, of payments of dividends, are to be made semi-annually. (§ 82.)

But returns of income, of carriages, billiard tables, yachts, and plate kept for use, are to be rendered annually, as above.

The penalty for not making the return as required is stated below.

*Assessment books* have been prepared by the commissioner, which are to be carried through the district by the assistant assessor, and the assessment recorded at the time and place, to which the signature of the party assessed is to be obtained, in the column provided for that purpose. By signing the assessor's book, and agreeing to the record made therein, the entry becomes the tax-payer's return.

The *sworn* lists of manufacturers and others, and the distillers' monthly abstract, are to be copied into the book by the assistant assessor; but no signature is required.

As to the effect of the Act of March 3, '63, see Appen. p. 305.

*Corporations.*—It is provided, by section 113, that when any tax or duty is imposed on any corporation or its property, the commissioner shall prescribe and determine in what district such tax shall be assessed and collected, and to whom notice shall be given.

The commissioner has accordingly issued instructions as follows:

"The tax on manufactures will be assessed and paid in the district where the manufactory is situate, and notices be served, and demand be made, on the treasurer, president, agent, or owner.

"When a license tax or duty is imposed on a corporation (other than manufacturing), it shall be payable at the office of the treasurer, and notices shall be served upon the treasurer or president of such corporation."

#### ARTICLE 2.—LISTS VERIFIED BY OFFICER—ASSISTANT ASSESSORS' LISTS.

The lists returned by the owners of taxable property are not, however, conclusive. Besides these lists, the assistant assessors are required, on the first Monday of May of each year (and oftener, as required in certain specified cases), to proceed through every part of their respective districts and inquire after all owners of property and licensees, and to value and enumerate the several objects of taxation. (§ 7.)

In this valuation and enumeration the officer is to have especial reference to the lists returned by the property owners, &c.; and where such lists were actually returned, the officer may simply verify the list by an examination of the property therein mentioned.

In case, however, no list was returned by the person whose duty it was, as required, the officer must make out a return, which, being read and consented to and signed by the person owning the property, is to be received as a return of such person. (§ 8.)

It is not necessary for the assistant assessor to leave with the person assessed a certified copy of the return made to the collector. The lists are open for inspection for the period of fifteen days, for the express purpose of enabling parties interested to obtain the necessary information. (Com'r Boutw., *N. Y. Trib.*, Oct. 20th, '62.)

*Right of Entry.*—Every collector, or his deputy, assessor, or his assistant, is authorized to enter, in the day-time, any brewery, distillery, manufactory, or other place where subjects of taxation are kept or produced in his district, so far as may be necessary for the examination of the property, or inspection of the accounts, required by the act. (§ 27.)

For refusing to admit the collector or deputy, or to suffer him to examine the property or inspect the accounts, the penalty is \$500 for each offence, or imprisonment for not over two years. (§ 28, p. 230.)

In case of the absence of a person from his place of business at the time the assistant assessor calls to receive the lists, the assistant assessor is to leave at his residence, with some person of suitable age and discretion if such be present, otherwise to deposit in the nearest post-office, a written notice to present the list required within ten days from date. (§ 10.)

*Penalties.*—On refusal or neglect to give the list within ten days, as required by the notice, the assessor or assistant assessor may enter into the premises and make a list of the property liable to taxation, including the amount due for license fee, if any, according to the best information he can obtain. (§ 11; *act of March 3, '63*, § 1.) And, in such case, the assessor may add fifty per cent to each item of the list so made, except where the neglect may be excused on the plea of sickness. In addition to this, the tax payer thus neglecting to make lists must pay a penalty of \$100, except in case of sickness, or failure to receive the notice. (§ 11.)

\* *Still* - ...

Under the act as it stood, the authority given by section 11 could be exercised by the assessor only. Under the amendment passed March 3, the assistant assessor is authorized to exercise the same authority as the assessor.

Failure to receive the notice, however, is a defence only to the penalty of \$100, and not to the fifty per cent addition. (§ 11.) See Appendix, page 301.

*For making a false statement* to the assessor on his requiring the list of property, &c., with the intention of defeating the valuation or enumeration intended to be made, the person offending is liable to an indictment therefor; and, on conviction in any United States circuit or district court of the district where the offence is committed, may be fined in a sum not exceeding \$500, in the discretion of the court, together with costs. (§ 9.)

#### ARTICLE 3.—WHERE PROPERTY IS ASSESSED.

In general, each subject of taxation is assessed in the district where located; and the annual lists must be returned to the assistant assessor of the district where the particular business or property taxed is located.

*Property in another district.*—Where a person, however, has taxable property in another district than that in which he resides, he may make and deliver lists thereof to the assistant assessor of the district where his residence is. The district where such property is situated must be stated in the list. Thereupon the assistant assessor who receives the list transmits it to the assistant assessor where the property is situated, for his examination and approval.

It is then returned to the assistant assessor from whom he received it, with his approval, or, failing to approve, his alterations or additions thereto. The assistant assessor of the district where the owner resides then proceeds to make the assessment of the tax upon such lists as if they had been made out by himself. (§ 13.)

The assistant assessors are instructed by the commissioner to keep, in their assessment book, a separate record of the lists for transmission to other districts; and any assistant assessor receiving such list or lists from a collection district other than his own, must enter the same upon his assessment books, to the end that it may be returned to the assessor and charged

against the collector of the district wherein the tax is to be collected.

It will frequently become important to determine in what district one may be considered to "reside." In general, a man's residence is the place of his fixed habitation, where his home is, and where his political rights are to be exercised. (*Houghton v. Ault*, 16 *How. Pr.* 77; *Bartlett v. City of N. Y.*, 5 *Sandf.* 44; *Douglass v. Mayor, &c.*, of N. Y., 2 *Duer*, 110.)

*Property of non-residents.*—Where no lists are returned of the taxable property of persons not residents of the district where the property is situated, the assistant assessor of the district must enter into the premises and make the lists required, which, being subscribed by the assessor, will be considered sufficient lists of the property. (§ 12.)

#### ARTICLE 4.—GENERAL LISTS FOR PUBLIC INSPECTION.

Two general lists are arranged by each assistant assessor, and by them delivered to the assessor, for public inspection.

The first list exhibits, in alphabetical order, the names of all persons residing in the assessment district liable to taxation, with the value, and assessment or enumeration, as the case may be, of the property on which taxes are payable by each of such persons, together with the amount of the tax so payable.

The second list exhibits, in alphabetical order, the names of all persons residing *out* of the *collection* district, who have taxable property within the district, with the value, and assessment or enumeration thereof, as the case may be, with the amount of the tax payable thereon. (§ 14.)

The assistant assessor making out such separate list of property in his district belonging to non-residents, must also transmit certified copies of it to the assistant assessor where the owner resides or has his principal place of business, so that the assessed taxes may be paid within the district where the persons liable to pay the same reside, or have their principal place of business. (§ 16.)

These lists, prepared by the assistant assessors, are to be delivered to the assessor within thirty days after the first Monday of May in each year, except that where duties, taxes, or licenses accrue oftener than once a year—*e. g.*, the duty on auction

sales, distilled spirits, &c.—lists thereof must be delivered, from time to time, as provided for in such cases. (§ 14.)

The assessor must advertise in a paper in each county within the district, and by written or printed notifications posted in at least four public places within each assessment district, the time and place within said county when and where the lists may be examined. The advertisement and notifications must also state when and where appeals will be heard relative to erroneous or excessive valuations or enumerations of the assistant assessors. (§ 15.)

The lists remain open for public examination for fifteen days after the date of the published notice. (§ 15.)

#### ARTICLE 5.—APPEALS FROM ASSISTANT ASSESSORS' VALUATION.

After the expiration of the fifteen days allowed for a public examination of the general lists, fifteen days are further allowed for hearing appeals, by the assessor, from erroneous or excessive valuations or enumerations by the assistant assessors, at the time and place mentioned in the advertised notice.

The assessor is to hear and determine, in a summary way, according to law and right, upon all appeals exhibited against the proceedings of the assistant assessors. (§ 15, p. 220.)

Assessors are not to give fifteen days to each county, but only so much time after the expiration of the notice as may be necessary. Very likely a day or two may suffice, as in some counties there may be no appeal. The hearing will be summary and brief. Counsel should not be allowed, in ordinary cases, to argue matters at length. (Com'r Boutw., Decis. No. 32.)

The appeal must be in writing, and must specify, 1st, the particular cause, matter, or thing respecting which a decision is requested; and, 2d, the ground or principle of inequality or error complained of.

The sole questions to be determined by the assessor, on an appeal respecting the valuation or enumeration of property, are—

1. Whether the valuation complained of is, or is not, in a just relation or proportion to other valuations in the same assessment district; and,

2. Whether the enumeration is, or is not, correct.

The assessor may re-examine and equalize the valuations complained of, as shall appear just and equitable; but no valuation or enumeration can be increased without a previous notice, of at least five days, to the party interested. Such notice must be in writing, to be left at the party's dwelling-house or place of business. (§ 15.)

The notice may be partly written and printed. (*Act of March 3, 1863, § 1, p. 218.*)

Whenever any person makes a communication to the office of internal revenue, in the nature of an appeal from the action of an assessor, or an assistant assessor, in the discharge of his official duties, or for the purpose of obtaining an opinion as to the liability of the writer to taxation, such communication must first be submitted to the assessor of the district, and his written assent obtained to the truth of the statements made in said communication; or the writer must certify that he has transmitted a copy thereof to the assessor of the district, either by mail or otherwise. The appeal will be considered, and the answer forwarded to the writer through the assessor from whom the appeal is taken. (*Com'r Boutw., N. Y. Trib., Dec. 18, '62.*) For further decisions, see page 305.

#### ARTICLE 6.—CORRECTED GENERAL LISTS.

Immediately after the expiration of the time for hearing appeals, the assessor makes out new and corrected lists (and from time to time thereafter, as required), containing the amount of tax upon every object of taxation in the collection district; also, the names of every resident taxpayer in the district, with the sums payable by each; and, within ten days after the expiration of the time for hearing appeals, furnishes certified copies to the collectors of the several collection districts respectively. (§ 16.)

This is, by order of the commissioner, a copy in detail of the assessment books in Form No. 23. Three of these lists are to be made,—one to remain with the assessor, and to be open to the inspection of any person who may apply to inspect the same; one to be delivered to the collector of the district; and one to be forwarded to the commissioner of internal revenue.

If the returns for any month are defective, the deficiency should be supplied when the returns for the next month are made.

That is, if no returns from a manufacturer can be obtained until the monthly list is complete and returns made, his returns must be included in the next return to the collector and to the commissioner. (Com'r Boutw., *N. Y. Trans.*, Nov. 8, '62.)

## CHAPTER III.

### THE COLLECTION OF THE TAX.

- ARTICLE 1.** Duty of collector.
2. Penalties for neglect to pay taxes.
  3. Proceedings on distraint and sale.
  4. Seizure and sale of real estate.
  5. Property exempt from distraint.
  6. Sale of property of absentees.
  7. Redemption.
  8. Returns by collectors.
  9. Accounts in treasury department.

#### ARTICLE 1.—DUTY OF COLLECTOR.

The collector of the district, on receiving the corrected list of the assessed taxes from the assessor, writes a receipt therefor upon a copy of the list, and delivers it to the assessor, who keeps it open for the inspection of any person applying.

He gives two other receipts, exhibiting the aggregate amounts of such list merely, and showing the amount of taxes to be collected in his district. One of these aggregate statements or receipts he transmits to the commissioner of internal revenue and the other to the first controller of the treasury. (§ 18.)

*Public notice.*—Within ten days after receiving his annual collection list from the assessor, the collector must give notice, by advertisement in one newspaper printed in each county of his district, and by notifications posted in at least four public places in each county, that the duties, as assessed, have become due and payable; stating also the time and place within said county at which he will attend to receive the same; which time must not be less than ten days after such notification (§ 19). The penalty for neglect to pay the taxes within the time specified, must be stated in the advertisements and notifications.

*Personal demand.*—But with respect to all such duties as are not included in the annual lists—*e. g.*, the duty on auction sales, distilled spirits, dividends, advertisements, manufactures,

&c.—the collector is to make a personal demand for the payment thereof within ten days after receiving the lists thereof from the assessor, and, if not paid within ten days of such demand, he may proceed for their collection in the same manner as provided for the collection of the taxes contained in the annual lists. (§ 19.)

By the amendment of March, 1863, the deputy collector is authorized to perform all the duties required of a collector in this section; and the notice required as above may be sent by mail, or left at the dwelling or place of business.

For instructions to collectors in reference to collections and prosecutions for fines, see Appendix, page 301.

#### ARTICLE 2.—PENALTIES FOR NEGLECT TO PAY TAXES.

For a neglect to pay the taxes within the time specified, the person in default is liable to pay ten per cent additional upon the amount of the tax.

In case of such failure to pay the tax within the time specified, the collector or his deputy is to make a personal demand for payment of the taxes and the penalty, within twenty days after such failure; and, if not paid within ten days after such demand, the collector may proceed to collect the same, with the ten per cent additional, by distraint and sale of the goods of the delinquent person. (§ 19.)

The notice may be mailed, or left at the dwelling or usual place of business, written or printed; the notice to state the amount of duty for which such persons are liable, including the ten per cent additional, demanding payment of the same; and with respect to all such duties or taxes as are not included in the annual lists, and all duties the collection of which is not otherwise provided for, it is the duty of each collector or deputy to demand payment therefor, in the manner provided, within ten days from the expiration of the time when the duty should have been paid; and any copy of distraint must be left at the dwelling or usual place of business of the owner or possessor of the property distrained.

No special demand, however, is necessary in respect to taxes on carriages, yachts, billiard tables, and plate. (*Act of March 3, '63, § 1, p. 225.*)

Violators of the law, setting it at defiance, should be cautioned and warned before proceeding against them in the manner indicated in the law. (Com'r Boutw., N. Y. Trans., Nov. 8, '62.)



*Actions for the recovery of taxes, penalties, &c., are to be prosecuted by collectors in their own names, or that of the United States, in any circuit or district court in the collection district, or in any other court of competent jurisdiction. (§ 31.)*

False swearing declared perjury, and punishable as such under United States statutes. (§ 32.)

For forcibly obstructing or hindering a collector or his deputy in the discharge of their duties under the act, or for forcibly rescuing, or causing to be rescued, any property seized by them, or for attempting or endeavoring to do so, the person offending is liable to a penalty of \$500, or to a term of imprisonment not exceeding two years. (§ 28; *act of March 3, '63*, § 1, p. 230.)

#### ARTICLE 3.—PROCEEDINGS ON DISTRAINT AND SALE.

In case of distraint, the officer must make an account of the goods or chattels distrained, and leave a copy thereof, signed by himself, with the owner, or at his residence or place of business, with some person of suitable age and discretion, with a note of the sum demanded, and the time and place of sale.

The officer must forthwith publish a notification in some newspaper within the county where the distraint is made, or he may post it at the post-office nearest the residence of the owner of the property, if there be one within five miles, and in not less than two other public places. The notice must specify the articles distrained, and the time and place for the sale thereof, which time must not be less than ten, nor more than twenty, days from the date of such notification, and the place proposed for the sale not more than five miles distant from the place where the property is situated. (§ 19.)

The goods so distrained may always be restored, however, at any time prior to the sale, on the payment or tender of the amount due, with the fee for levying, and such sum for the necessary expense of removing, advertising, and keeping the goods as prescribed by the court.

Unless this is done, the goods are to be sold at public auction, and the officer may retain, out of the proceeds, besides the amount due the revenue, a commission of five per cent for his own use. Any overplus must be restored to the owner of the goods. (§ 19.)

In cases where the property liable to distraint is not divisible, so as to enable the collector, by a sale of part of it, to raise the whole amount due, the whole of the property may be sold, and the surplus, after satisfying the demands of the revenue, must be paid to the owner, or his legal representatives. Where the owner or any representative cannot be found, or they refuse to receive it, the surplus is to be deposited in the United States treasury, to be held for the owner, and payable on the warrant of the secretary of the treasury, on application to him.

Where the property advertised cannot be sold for the amount due the revenue, the collector must purchase it, in behalf of the United States, for an amount not exceeding the sum due. Such property may be afterwards sold by the collector, under the regulations of the bureau (§ 20). See Appendix, page 301.

*Appeal.*—Any person feeling aggrieved by the collection of a tax by levy and distraint may apply for relief to the assessor of the district, who will hear the case and report the evidence to the commissioner for his decision. On a certificate by the commissioner of the amount wrongfully collected, the treasury will refund. (§ 35.)

*Claims for taxes improperly paid,* under the existing law, may be made to the commissioner of internal revenue, through the collectors of the respective districts (supported by the affidavits of the claimants and the certificates) under whose discretion the taxes were assessed. (Com'r Boutw., Decis. No. 54.)

#### ARTICLE 4.—SEIZURE AND SALE OF REAL ESTATE.

If sufficient personal property cannot be found out of which to satisfy the claims of the revenue, the collector may collect the amount out of the real estate of the party in default.

A collector is not restricted to the estate of the person owing the taxes which may be situated in his own district, but he may seize and sell any estate of the party wherever situated, within the State.

In such case, the officer, on seizing the property, must give personal notice to the owner, or, if he cannot be found, may leave at his last place of abode, if he had any in the district, stating what particular estate is proposed to be sold, describing

the same with reasonable certainty, and the time and place of the sale, which time must not be less than ten, nor more than twenty, days from the time of giving the notice.

The officer must also advertise to the same effect in some newspaper in the county where the property is situated, and must post a like notice at the post-office nearest the owner's residence, and in two other public places in the county.

The sale must not take place more than five miles distant from the estate, and must be at public auction. (§ 21.)

*The sale* may be postponed for a period not exceeding five days. The officer must offer the property at a minimum price, including the amount of duties, with ten per cent additional, and charges for advertising, and an officer's fee of \$10. But if no one offers the amount of such minimum, the officer declares the property to be purchased by him for the United States, and he is to deposit a deed thereof with the district attorney of the United States. If the amount of the bid is not paid at the time of sale, the officer must proceed to sell again; but if paid, he must give his receipt therefor, if requested, and within five days thereafter make out a deed of the property, executing the same in his official capacity, in the manner prescribed by the laws of the State in which the property is situated, and deliver it to the purchaser when requested. (§ 21.)

The deputy making the sale must return to the collector a certified statement of all his proceedings on the sale. (§ 21.)

*The deed* must recite—

1. The fact of the seizure and sale, with the cause thereof.
2. The amount of duty and charges for which the sale was made.
3. The amount paid by the purchaser.

The facts stated in such a deed are deemed, *prima facie*, true; and if the proceedings of the officer, as set forth, have been substantially in pursuance of the provisions of the act, the deed operates as a complete conveyance of the title to the purchaser.

But the rights of third parties, acquired previously to the claim of the United States, are not affected by such deed and conveyance. (§ 21.)

*The surplus*, if any, arising from the sale, is disposed of in the same manner as upon sales of personal property. (§ 21.)

*Redemption*.—The owner of the estate seized has likewise

the same right as in the case of personal property, to reclaim the estate before sale on payment of the amount due, with the proper charges. (§ 21.)

See REDEMPTION, *infra*.

*Records.*—The collector must keep a record of all sales of land made in his district, in which must be set forth the tax for which the sale was made, the dates of seizure and sale, the name of the party assessed, the name of the purchaser, the proceedings on the sale, the amount of fees and expenses, and the date of the deed. Each record is certified by the officer making the sale. (§ 21.)

On going out of office, the collector deposits this record in the office of the clerk of the United States district court for his district; and a copy of every such record, certified by the collector or clerk, as the case may be, is evidence in any court of the truth of the facts therein stated. (§ 21.)

#### ARTICLE 5.—PROPERTY EXEMPT FROM DISTRAINT.

The tools or implements of a trade or profession, one cow, arms, provisions and household furniture kept for use, and apparel necessary for a family, are exempt from distraint for the non-payment of taxes. (§ 19.)

#### ARTICLE 6.—SALE OF PROPERTY OF ABSENTEES.

If the collector finds, upon any lists returned to him for collection, any taxable property in his district not owned or occupied by any person known by the collector to be a resident of the United States, he forthwith takes the property into his custody, and advertises it, with the amount of the tax, in some newspaper published in his district, if there be one, otherwise in a newspaper in an adjoining district, for thirty days.

And if within that time the taxes and charges are not paid, the collector may proceed to sell the same, in the manner provided for the sale of other goods distrained for unpaid taxes (§ 22). Any surplus is to be paid into the treasury, for the benefit of the owner, as provided for in other cases.

#### ARTICLE 7.—REDEMPTION.

The owners of land sold for taxes, their heirs, executors or administrators, or any person having an interest therein, may redeem the land so sold within one year after the recording of

the deed. To do this, he must pay the purchaser the amount paid by him, with twenty per cent interest; or, if the purchaser cannot be found in the county where the land is situated, to the collector, for the use of the purchaser, his heirs, or assigns. (§ 21.)

The claim of the Government to lands sold for unpaid taxes is held to attach at the time of seizure thereof.

When any lands are redeemed, an entry of the fact is to be made upon the collector's record, and such entry is evidence of the redemption. (§ 21.)

#### ARTICLE 8.—RETURNS BY COLLECTORS.

At the expiration of each month the collectors transmit to the commissioner of internal revenue a statement of the moneys they may have collected within the month, and pay the same over then, or at such times and places as the commissioner may require. The collectors are to render accounts whenever the treasury department may require it, and at least within six months after receiving the collection lists. (§ 23.)

It is intended in this abstract that the gross totals of the entire district shall be entered under each specific head, on one line only, and that this blank-book form shall be returned to the office monthly. (Com'r Boutw., *N.Y. Trans.*, Nov. 8, '62.)

The collector is charged with the whole amount by him receipted, and credited with amount sent to other collectors, and taxes of absconding and insolvent persons, and with the amount of property purchased for the Government. (§ 24.)

*On the failure of a collector* either to collect or to render his account, or to pay over as required, it is the duty of the first controller of the treasury to report the delinquency to the solicitor of the treasury, who must thereupon issue a warrant of distress against the delinquent collector and his sureties, therein expressing the amount with which the collector is chargeable, and the sums, if any, which have been paid.

The marshal to whom the warrant is issued, proceeds to collect the sum by the distress and sale of the personal property of the collector, giving at least five days' notice of the sale; and in case the property is not sufficient to satisfy the warrant, proceeds to collect the amount from the personal property of the sureties. For want of personal property be-

longing either to the collector or his sureties, their real property is to be resorted to. (§ 25.)

The manner of sale in such cases, form of deed, and disposition of surplus, are prescribed in section 25.

#### ARTICLE 9.—ACCOUNTS IN TREASURY DEPARTMENT.

Separate accounts are kept at the treasury department of all moneys received from internal duties and taxes in each State, Territory, and collection district. Separate accounts are also kept of the amount of each *species* of duty or tax accruing to the revenue, so as to exhibit, as far as may be, the amount collected from each source of revenue, and the moneys paid to the officers under the law in each of the States, Territories, and collection districts.

An abstract of these accounts, in tabular form, is to be laid before congress annually, in the month of December, by the secretary of the treasury. (§ 33.)

For the provisions of the amendatory act, relating to the accounts of the commissioner of internal revenue, consult the act (§ 18), in the Appendix, p. 214.

### CHAPTER IV.

#### ALLOWANCE AND DRAWBACK.

When any duty has been paid on an article, except raw or unmanufactured cotton, and the article is exported, an allowance or drawback of duty may be had. To obtain this, satisfactory evidence must be furnished the commissioner that the duty, as claimed, has been paid. The drawback allowed must not be more than the duty paid, nor less than \$20. (§ 116.)

By this provision is meant, that each shipment must amount to the sum of \$20, and not the aggregate of a number of shipments. A shipment may be made up of different goods, but if they were shipped in a particular vessel, sailing from the same port at the same time, they constitute one shipment; and if the internal-revenue tax thereon amounted to \$20, the parties are entitled to claim drawback therefor. (Com'r Boutw., *N. Y. Trans.*, Feb. 19, '63.)

Section 47 refers to the removal, for exportation, of spirits or oil on which the tax has not been paid; and section 116 refers to the transportation of spirits or oil on which the tax has been paid. In the latter case only is there a claim for drawback or allowance of the amount of tax paid. Any quantity of spirits or oil may be exported, and the drawback claimed, when duty to the amount of \$20 or more has been paid. (Com'r Boutw., *id.*, Nov. 14, '62.)

The following is the evidence to be given to the commissioner of internal revenue when a claim for drawback has been made :

*First.* The certificate of the collector of internal revenue that the internal revenue tax has been paid, which certificate must, when possible, particularly describe the goods, by their marks or otherwise, their quantity, the rate of tax, whether specific or ad valorem, the amount of duty imposed, and the name of the manufacturer or producer who paid the same.

*Second.* The certificate of the collector, or other competent officer of the customs, to the effect that the goods, upon which the drawback is claimed, have been exported, and the name of the exporter, the vessel, the port, and date of shipment.

*Third.* The affidavit of the party making the claim, or other competent person, setting forth that the goods, upon which the claim for drawback is made are the identical goods upon which the internal revenue tax has been paid, as certified by the collector of internal revenue; that the said goods have been exported at the time and in the manner stated by the collector of the customs, and also the amount of the drawback claimed, and that the party making the claim is justly entitled thereto.

This affidavit must be executed before a notary public or magistrate having a seal; or if executed before a justice of the peace, there must be a certificate from a proper officer that such person is duly authorized to administer oaths. (Com'r Boutw., Decis. No. 64.)

By the amendatory act of December 25, 1862, collectors and their deputies, assessors and their assistants, are empowered to administer required oaths. (See the act in Appendix, p. 299.)

*Bureau in charge of exports for the benefit of drawback.*—The evidence of exportation, to entitle to benefit of drawback, required by the amendatory act, is the same as required to entitle the exporter to benefit of drawback under the acts relating to drawbacks of duties on imports. The bureau in charge of exports for the benefit of drawback under those acts

at the port of New York, and at such other ports as the secretary may designate, are to have charge of claims for drawback under the excise law.

"The head of such bureau shall be invested with the authority and receive the emoluments of a deputy collector of customs; and the said bureau shall, under the direction of the collector of the customs, embrace the supervision of all exports entitled to remission of duties, or to drawback of duties paid, under the acts above mentioned; the ascertaining and certifying such duties; the taking and cancelation of required bonds; the charge of all export entry papers for benefit of drawback and officers' return thereon, and of certificates in proof of the landing of such exports abroad; *provided*, that nothing herein contained shall be construed to change or modify the existing mode of paying the drawback and debentures allowed by the laws before referred to." (§ 35, p. 296.)

By the amendatory act of March 3, 1863, the commissioner is authorized to remit and pay back all duties erroneously or illegally collected, and to satisfy all judgments against collectors or deputies.

*Certificates of drawback* for goods exported, issued in pursuance of this act, may be received by the collector or his deputy in payment of duties under this act; and the secretary of the treasury may make such regulations with regard to the form of said certificates and the issuing thereof as may be necessary.

*Additional drawback on cotton goods.*—In computing the allowance or drawback upon articles manufactured exclusively of cotton, when exported, in addition to the three per cent duty paid on such articles, a drawback of five mills per pound may be allowed upon such articles, where the duty imposed upon the cotton used in the manufacture thereof has been previously paid; the amount of said allowance to be ascertained in such manner as may be prescribed by the commissioner of internal revenue, under the direction of the secretary of the treasury. (§ 116.)

*Drawback on cordials.*—By the amendatory act of March 3, 1863 (see Appendix), an allowance or drawback is allowed on cordials and other liquors, manufactured in whole or in part from domestic distilled spirits on which a duty shall have been paid, equal in amount to the duty paid on such spirits when exported, with such deduction as the secretary of the



treasury may think reasonable, not exceeding five per cent of the amount of duty so paid. The allowance can be allowed, however, only when the value of the spirits used in such manufacture *exceeds* one half the whole value of the manufactured article.

*Penalty.*—Any person fraudulently claiming an allowance or drawback on goods on which no duty shall have been paid, or fraudulently claiming any greater allowance or drawback than the duty actually paid, forfeits triple the amount fraudulently claimed or sought to be obtained, or the sum of \$500, at the election of the secretary of the treasury, to be recovered as in other cases of forfeiture. (§ 117.)

## CHAPTER V.

### MISCELLANEOUS PROVISIONS.

- ARTICLE 1. When the act takes effect.  
2. Particular States and Territories.

#### ARTICLE 1.—WHEN THE ACT TAKES EFFECT.

The act took effect September 1, 1862. It was originally intended that it should go into operation on the 1st day of August; but, by joint resolution, the secretary of the treasury was authorized to postpone it, which he did.

But, as the commissioner decides, the joint resolution under which the secretary acted in postponing the practical operations of the law to September 1st, applies only to those parts of the law requiring particular things to be done on the 1st of July or August; providing that such matters and things may be done on any other day, not later than the first day of October. (Com'r Boutw., *N. Y. Trans.*, Oct. 29, '62.)

#### ARTICLE 2.—PARTICULAR STATES AND TERRITORIES.

Taxes due from persons residing in insurrectionary States are to be collected as soon as the authority of the Federal Government is re-established therein, with interest at six per cent thereon from the time the tax became due. (§ 37.)

By the late amendment, assessors and collectors are dis-

pensed with in the Territories after the present assessment is collected.

*The direct tax* of \$19,312, imposed by the act of August 5, 1861, on the Territory of Nebraska, is declared satisfied by deducting the amount from the appropriation to the Territory for the year ending June 30, 1863.

The State of Tennessee has until the 1st of December, 1862, to assume the payment of her portion of said tax.

## BOOK II.—THE TAXES.

ON OCCUPATIONS, MANUFACTURES, ARTICLES,  
PRODUCTS, SALARIES, PAY, LEGACIES, &c., &c.

[Under this head are arranged, in alphabetical order, the various occupations subject to license duty, the manufactures and other objects liable to specific or ad valorem duties, salaries and pay, legacies, and distributive shares of personal property.

The income tax and the stamp duties being somewhat peculiar in their operation, are treated of separately in Books III. and IV.

On the subjects of the assessment and collection of the tax generally, the preceding chapters should be consulted.]

**AGENTS.**

The several classes of agents, or persons acting in behalf of others affected by the tax law, are the following: Brokers of all kinds (including cattle brokers, commercial and land-warrant brokers), claim agents, patent agents, and insurance agents, which see, under their several heads.

*An agent of a manufacturer*, employed exclusively by him, may receive goods at a different place from the factory, without the duties being first paid. In such case, the duties are due when the goods are sold, or removed from the agent's hands. (Com'r Boutw., Decis. No. 4.)

The word "agent," as used in this connection, means either a person who is the exclusive agent of a manufacturer, or any person or firm selling goods on commission, designated by a manufacturer as his agent for the sale of his manufactures. In all cases, the manufacturer will be required to make known to the assessor or assistant assessor of the district the name and place of business of the agent so designated. (Com'r Boutw., Decis. No. 40.) See further, on this subject, MANUFACTURES IN GENERAL, *infra*.

*Traveling agent*.—So, a person employed by another exclusively, may travel for the purpose of soliciting orders, without license as a commercial broker. (Com'r Boutw., *N. Y. Trans.*, Oct. 30, '62.)

*Agents of insurance companies* located within the United States are not commercial brokers. Foreign agents are taxable under section 85. (Com'r Boutw., *N. Y. Trans.*, Oct. 30, '62.)

Under the amendment of March 3, 1863, "insurance agents" are liable to license duty.

See **BROKERS (INSURANCE)**, *infra*.

Agents of foreign insurance companies are made subject to the same taxation, and are required to render the same quarterly returns as domestic companies, under section 85.

See **INSURANCE COMPANIES**, *infra*.

*Bankers*.—Agents for the sale of merchandise, for account of producers or manufacturers, are not the bankers of their principals, within the meaning of the act, so as to require a banker's license. (§ 64, subd. 1.)

Transportation agents, and house and real estate agents are liable to license as commercial brokers.

See **BROKERS (COMMERCIAL)**, *infra*.

What classes of agents are to be regarded as peddlers, see **PEDDLERS**, *infra*.

What agents are dealers, see **DEALERS**, *infra*.

### ALCOHOL.

Alcohol, made or manufactured of spirits or materials upon which the duties have already been paid, is not a manufacture, within section 75, subject to a tax. (§ 75.)

Where, however, it is manufactured from spirits distilled before the act went into effect, and on which a tax has not been paid, it is subject to a duty of three per cent, ad valorem. (Com'r Boutw., *Decis.* No. 17.)

Makers of alcohol require a license.

See **DEALERS**; **MANUFACTURERS**, *infra*.

### APOTHECARIES.

[License fee, \$10.]

Apothecaries whose annual gross receipts exceed \$1,000 are required to pay \$10 for a license. (§§ 64, 65.)

*Defined*.—Every person is regarded an apothecary who keeps a shop where medicines are compounded and sold according to prescriptions of physicians. But wholesale and retail dealers, who have taken out a license as such, require no license as apothecaries. (§ 64, subd. 28.)

An apothecary is not required to obtain a second license as a retailer of liquors, as to wines or spirits which he may use *exclusively* in the preparation of medicines. (§ 66.)

Spirituous liquors of any kind can be used by an apothecary only in the preparation of medicines. When sold otherwise, he will be required to take out a license as a dealer. (Com'r Boutw., Decis. No. 18.)

*Alcohol* may be sold by regularly licensed apothecaries without a retail liquor-dealer's license. (*Act of March 3, '63*, § 1, p. 250.)

A physician who keeps on hand medicines, solely for the purpose of making up his own prescriptions for his own patients, does not require a license as an apothecary. (§ 66.)

An apothecary may prescribe remedies, or perform surgical operations, without a license as a physician or surgeon. (§ 64, subd. 32.)

Whether an apothecary selling fancy articles requires a dealer's license, see *DEALERS, infra*.

#### ARCHITECTS AND CIVIL ENGINEERS.

[License fee, \$10.]

*Defined.*—Every person whose business it is to plan, design, or superintend the construction of buildings, or ships, or of roads or bridges, or canals or railroads, is regarded an architect or civil engineer under the act, and is subject to a license duty of \$10. But this does not include practical carpenters who labor on buildings. (§ 64, subd. 34, as amended, p. 251.)

#### AUCTIONEERS.

[License fee, \$20.]

*Defined.*—Every person is deemed an auctioneer whose occupation it is to offer property for sale to the highest bidder. (§ 64, subd. 2.)

*Cannot sell at private sale.*—An auctioneer cannot, by virtue of his license as such, sell at private sale, without taking out a dealer's license; and for so doing, he is liable to the same penalty as dealers in the same goods without license,—that is, three times the amount of such dealer's license fee (§ 62). Auctioneers having paid the private-sale license, are not required to pay the auction duty on goods sold at private sale. (Com'r Boutw., *N. Y. Trans.*, Oct. 30, '62.)

*For licensed trader.*—An auctioneer may sell for a licensed trader, on the trader's duly entered house or premises, without taking out a separate license for each sale (§ 62). But it is the duty of the auctioneer to inquire whether the trader is duly licensed, before selling at his place. For selling the goods of an unlicensed trader at the trader's place, he is liable to the penalty for selling without license—i. e., three times the amount of his license fee, \$60. (Com'r Boutw., Decis. No. 27.) He may sell at his own place, however, the goods of any dealer; and, in selling the goods of a dealer at his own place, he need not inquire whether the dealer has a license. (*Id.*, N. Y. Trans., Oct. 28, '62.)

*The license not local.*—It would seem that auctioneers and peddlers are not required to carry on their business at any one place, under their licenses. All other licenses (except auctioneers' and peddlers' and exhibition licenses) must state the place of business at which the occupation for which the license is granted is to be carried on. (§ 60.)

The commissioner has decided that an auctioneer can sell such goods as are not usually included in the stocks of dealers, wherever such goods may be situated, without special license. (Decis. No. 27.)

But by the amendatory act of March 3, 1863, an auctioneer is not permitted to sell property in any other district than that in which his license is taken out.

See note on page 298.

*Judicial officers need no license.*—Judicial or executive officers making auction sales by virtue of any judgment or decree of any court, and executors or administrators making sales as such, need no license. (§ 62.)

As to who are "judicial or executive officers," see AUCTION SALES, *infra*.

*Unlicensed auctioneer.*—An auction sale by one not licensed as an auctioneer, will not avoid the conveyance to an innocent purchaser. (*Williston v. Morse*, 10 Met. 17; *Bogart v. O'Regan*, 1 E. D. Smith, 590.)

For manner of obtaining a license; penalty for doing business without license; and how license may be perpetuated to successor, &c., see LICENSES IN GENERAL, *infra*.

As to duty and liability of auctioneers respecting the auction duty, see AUCTION SALES, *infra*.

## AUCTION SALES.

[Duty, one-tenth of one per cent.]

## 1. THE DUTY.

A duty of one-tenth of one per cent is imposed upon the gross receipts of all sales of real or personal property at auction, including sales of stocks, bonds, and other securities (§ 76), except as stated under EXEMPTIONS, below.

*On what estimated.*—This duty is to be estimated upon the amount actually paid or agreed to be paid. Incumbrances existing on the property, such as mortgages, liens, &c., which are assumed by the purchaser as part of the price, are not dutiable. Only the surplus over such liens is taxed. (Com'r Boutw., N. Y. *Trans.*, Oct. 17, '62.) An auctioneer put up an estate in three lots. The whole estate was subject to a mortgage, which, by the conditions of the sale, was to be apportioned; and the vendor undertook to indemnify the purchaser against the payment of more than the allotted share. It was held, that a sale of one of the lots for £15,000, on which the apportionment was £10,000, was a sale only of the equity of redemption for £5,000, and that therefore upon that sum only was the auction duty payable. (*Rex v. Sedgwick*, 2 C., M. & R. 603; 1 *Tyr. & G.* 94.)

## 2. EXEMPTIONS.

Sales by judicial or executive officers, by virtue of a judgment or decree of any court, and sales by executors or administrators, are exempt from this duty.\*

Marshals, sheriffs, constables and clerks of court, as well as surrogates and other judges, are obviously judicial officers.

So referees are officers of the court (*Breese v. Busby*, 13 *How. Pr.* 485); and sales by them in foreclosure and partition suits are exempt from the duty.

A receiver must also be regarded as a judicial officer. (*Myrick v. Selden*, 36 *Barb.* 15; *Fessenden v. Woods*, 3 *Bosw.* 559; *Booth v. Clark*, 17 *How. U. S.* 322; *Matter of Burke*, 1 *Ball & B.* 74.)

\* The sale of bankrupts' estates are exempt from the duty in England.

*Assignees'* sales by auction are not exempt, unless the sale is by order of the court. (Com'r Boutw., *N. Y. Trans.*, Nov. 8, '62.)

We presume there can be no doubt that the persons whose sales are thus exempted may employ a professional auctioneer to conduct the sale, without thereby incurring liability for the tax.

*Sales for manufacturers* of goods upon which the tax has already been paid, are *not* exempt from the auction duty. (Com'r Boutw., *N. Y. Trans.*, Oct. 30, '62.)

### 3. PAYMENT OF THE DUTY.

The tax is to be paid by the auctioneer. He may, of course, reserve it out of the proceeds of the sale, or collect it from his employer by action (*Brittain v. Lloyd*, 14 *Mees. & W.* 762; *Wilson v. Carey*, 11 *id.* 368; 10 *id.* 641); but the Government can look to the auctioneer only.

The auctioneer may recover from his employer (the vendor), even where it was agreed between the vendor and purchaser that the latter should pay the auction duty, where it does not appear that the vendor, on the purchaser's refusal to pay the duty, declared the bidding to be void. (*Wilson v. Carey*, 10 *Mees. & W.* 641.)

Under a similar provision of the revenue act of California, passed 1857, it is held, that the action against the auctioneer for the duty is not defeated by the fact that he was not licensed as an auctioneer. (*State v. Poulterer*, 16 *Cal.* 523.) And it seems that the actual collection and receipt of the money by the auctioneer are not necessary to create his liability for the duty. The liability attaches, *prima facie*, upon the sale of the goods, and it is for the auctioneer to show legal excuse for not collecting the proceeds of sale. (*Ib.*)

A deposit by a purchaser for the auction duty may be recovered from the auctioneer on failure of vendor to make out good title; and no notice to auctioneer of the rescinding of the contract is necessary. (*Duncan v. Cafe*, 2 *Mees. & W.* 244.)

*The return.*—Within ten days of the end of each month the auctioneer must make a return, to the assistant assessor, of the gross amount of his sales, with the amount of duty payable, and pay such amount to the collector of his district.



Such return must be accompanied by an affidavit of the auctioneer that the same is true and correct. (§ 76.)

A penalty of \$500 is imposed upon auctioneers failing to make returns, or to pay duties within the time prescribed. (§ 76.)

#### **AWNINGS, BAGS, TENTS, SAILS, &c.**

[Duty, three per cent, ad valorem.]

The duty on sails, tents, shades, awnings, and bags made of cotton, flax or hemp, or part of either, or other materials, is three per cent, ad valorem.

But the sewing of sails, tents, awnings, carpets, and bags, the material whereof belonged to the employer, is exempt from duty when the cloth or material from which they are made was imported, or has been subject to, and paid, a duty.

#### **BAKERS;—BREAD.**

Bread and breadstuffs are not to be regarded as manufactures, and are therefore exempt from duty. (§ 75, p. 263.)

Bakers are required, by the regulations of the commissioner, to take out dealers' licenses.

See *DEALERS, infra*.

#### **BANKERS.**

[License fee, \$100.]

*Defined.*—Every person is deemed a banker "who keeps a place of business where credits are opened in favor of any person, firm, or corporation, by the deposit or collection of money or currency," "and paid out or remitted on the draft, check, or order of such creditor." (§ 64, subd. 1.)

But incorporated or other banks, legally authorized to issue notes, are not included. Nor are agents for the sale of merchandise, for account of producers or manufacturers, the bankers of their principals. (*Ib.*)

The similarity of bankers' and brokers' business, and the fact that the two kinds are frequently carried on by the same party, may easily lead to confusion and some difficulty in determining who are bankers as distinguished from brokers.

Commissioner Boutwell observes, it is impossible to lay down an arbitrary rule by which to test a man's business and decide whether he is a banker or a broker. The law is explicit. Assistant assessors must exercise their best judgment, with the

facts of each case in view. Parties who feel aggrieved can appeal to the assessors. (Decis. No. 13.)

A banker doing a brokerage business—*e. g.*, dealing in coin, currency, and exchange, or land warrants—must take licenses for such business. The license fee for brokers is \$50, and for land-warrant brokers \$25. But selling their own drafts, or funds accumulated elsewhere, is not a brokerage business. Thus, the commissioner has decided, that licensed bankers, as well as incorporated banks, may draw and sell their own drafts on their surplus funds, accumulated, in the ordinary course of business, in other places, without a broker's license,—as their selling of such drafts is not dealing in exchanges relating to money, within the meaning of the law. (Com'r Boutw., Decis. Nos. 43, 91.)

For the mode of obtaining and perpetuating license, the penalties, &c., see LICENSES, *infra*.

#### **BANKS, TRUST COMPANIES, AND SAVINGS BANKS.**

[Duty, three per cent on dividends, or on profits.]

No license is required for regularly incorporated banks, trust companies, or savings institutions.

The only tax imposed upon them is the three per cent duty on their profits, declared as dividends to stockholders or depositors, or added to their surplus funds.

By the amendatory act of March 3, 1863 (§ 14, p. 272), it is provided that, when banks or companies, legally authorized to issue notes, neglect or omit to make dividends or additions to their surplus funds as often as every six months, they must, in lieu thereof, make returns, under oath, to the commissioner of internal revenue, within thirty days of January 1 and July 1 in each year, of the amount of *profits* which have accrued, or been earned, or received during the preceding six months; and, at the same time, pay three per cent duty on such profits. See REGULATION No. 93, on page 315, *infra*.

The return of this kind for January 1, 1863, must be made on or before April 3, 1863. For penalties, &c., see DIVIDENDS (BANKS), *infra*.

*How collected.*—The bank is to pay the tax, but is authorized to deduct the amount from all payments made to a party on account of dividends, &c. (§ 82.)

The provisions of the law relative to this duty, and the requirements as to semi-annual returns of the banks to the

commissioner, the penalties for failure, &c., are fully stated under the head of **DIVIDENDS (BANKS)**, *infra*.

*Are not "bankers" or "brokers."*—Incorporated banks are not deemed "bankers" requiring a license (§ 64, subd. 1); but banks dealing in coin, currency, and exchange are subject to license as "brokers."

But a bank which has, in the ordinary course of business, accumulated funds at other places than that in which the bank is situated, may draw against such funds, and sell such drafts without thereby being liable to take license as a broker. (Comr. Boutw., Decis. Nos. 43, 91.)

### **BARLEY.**

Pearl barley and split peas are not to be regarded as a manufacture, liable to duty as such (§ 75, p. 263); but the manufacturer is a dealer, under the commissioner's decision, and requires a dealer's license.

See **DEALER**, *infra*.

### **BARRELS.**

See **COOPERS AND COOPERS' STUFF**.

### **BARYTES (Sulphate of).**

[Duty, ten cents per hundred pounds.]

The duty on sulphate of barytes is ten cents per one hundred pounds, but it is not subject to any additional duty in consequence of being mixed or ground with linseed oil, when the duties upon all the materials so mixed or ground have been previously actually paid. (§ 75.)

See **PAINTS**, *infra*.

### **BEER, ALE, PORTER, &c.**

[Duty until April 1, 1864, at the rate of sixty cents per bbl., containing not more than 31 gallons; after April 1, 1864, \$1.00 per bbl.]

#### **1. THE DUTY.**

As the law stood before amendment, the duty on all beer, lager beer, ale, porter, and other fermented liquors, by whatever name called, was \$1.00 for each barrel, containing not more than thirty-one gallons, and a like rate of duty for any other quantity, or fractional parts of a barrel, which might be brewed and sold, or removed for consumption and sale, after the 1st of September, 1862 (§ 50). But by the amendatory

act of March 3, 1863, the duty, until April, 1864, is reduced to 60 cents per barrel; but it is presumed that after that date the former rate is restored.

But no duty is leviable on liquors brewed or distilled prior to September 1, 1862, whether the liquor was removed for consumption or sale, or not.

To secure this exemption, the owner, agent, or superintendent of the brewery must furnish the assessor of the district satisfactory proof that the liquor was actually brewed or distilled before that date. (*Act of March 3, '63, § 12, p. 242.*)

*Fractional parts of barrels.*—The fractional parts mentioned must be halves, quarters, eighths, and sixteenths. Any fractional part containing less than one-sixteenth, is accounted one-sixteenth; more than one-sixteenth, and less than one-eighth, is accounted one-eighth; more than one-eighth, and less than one-quarter, is accounted one-quarter; and more than one-quarter, and less than one-half, is accounted one-half of a barrel (§ 50). By the amendatory act of March 3, 1863, in addition to the above fractional parts, there may be thirds and sixths, when the quantity contained in the barrel is not greater than such fractional part represents.

Malt and spirituous liquors and manufactured tobacco are not included in the limitation of section 73, which exempts from taxation manufactures where the annual product is less than \$600.

*Leakage.*—By the amendatory act of March 3, 1863 (§ 12, p. 242), deductions on account of leakage may be allowed, under the commissioner's regulations, from the quantity of liquors subject to taxation. These deductions are to be so adjusted in the different parts of the United States as to be proportioned, as nearly as practicable, to the distances over which the manufacturer usually transports his liquor for its wholesale. The expenses of ascertaining the leakage are to be paid by the owner of the liquor.

*Weiss Bier* is subject to this duty. (See page 306.)

## 2. PAYMENT OF THE DUTY.

The duty is payable monthly, on the amount made and sold during the month.

*Monthly account.*—The brewer must render to the collector, on the first day of each month, a general account, duly verified, taken from his books for the month last past. (§ 51. § 13 of *Act of March 3, '63, p. 242.*)

Besides the general monthly account required to be rendered to the collector, every licensed brewer must, once a month, furnish, on request, to the assessor or assistant assessor of the district in which his business is carried on, an abstract of the entries from his books, showing the amount of liquor brewed and sold, or removed for consumption or sale, during the preceding month. The abstract must be verified by the oath of the party; but the assessor or assistant assessor have the right to examine the books to ascertain its correctness. (§ 56.)

*For penalties imposed for failure to comply with these requirements, see PENALTIES, page 43.*

*Removal of liquor.*—Where a brewer manufactures in one collection district, and has a depot or warehouse in another for the storage and sale of the liquor, he may, instead of paying the duties to the collector of the district where the brewery is situated, remove the liquor to his warehouse, and pay the duties to the collector of that district.

To do this he must present, to the collector or deputy of the district where the brewery is situated, an invoice of the quantity or number of barrels intended to be removed, specifying in such invoice, with reasonable certainty, the warehouse in which he intends to place the liquor. Thereupon the collector or deputy indorses on the invoice a permission for the removal, and, at the same time, transmits a duplicate to the collector of the district where the warehouse is situated.

After the removal, the brewer renders accounts, pays duties, &c., as if the liquor had not been removed. (§ 51.)

*Sales at place of removal.*—Any manufacturer of beer, &c., who owns or hires a depot or warehouse for the storage and sale of such beer in a collection district other than that in which his manufactory is situated, and who shall have obtained a permit for the removal of such beer, as above, may sell such beer, of his own manufacture, at such depot or warehouse, in quantities of more than three gallons at one time, to the same purchaser, without being required to take a license as a wholesale dealer in liquors. (Com'r Boutw., Decis. No. 57.)

But this does not authorize the sale, at such depot or warehouse, of any beer not removed from the place of manufacture in the manner prescribed above. (*Ib.*)

### 3. BREWER TO KEEP RECORDS.

Every brewer\* must keep, from day to day, for the inspection of the collector, a record, which shall be open at all times, from sunrise till sunset (except Sundays), of the quantity or number of barrels, and fractional parts of barrels, of fermented liquors made and sold, or removed for consumption and sale. Where several kinds of liquors are made, separate accounts must be kept. (§ 51.)

Under the act, before amendment, a record was required to be kept of the quantity of grain or other substances put in the mash-tub. This is now dispensed with. These records and general accounts are to be verified by the person making them, by oath or affirmation before the collector or any officer authorized by the laws of the State to administer the same. The records are to be verified, in substance, as follows:

"I do swear (or affirm) that the foregoing entries were made by me on the respective days specified, and that they state, according to the best of my knowledge and belief, the whole quantity of fermented liquors either brewed, or brewed and sold, at the brewery owned by ———, in the county of ———, amounting to ——— barrels." (§§ 51, 52.)

In case the original entries were not made by the brewer himself, he must subjoin to the oath or affirmation the following:

"I do swear (or affirm) that, to the best of my knowledge and belief, the foregoing entries are just and true, and that I have taken all the means in my power to make them so." (§ 53.)

### 4. PENALTIES AND FORFEITURES.

For a neglect or refusal to make true and exact entries and reports of the same, "or to do, or cause to be done, any of the things by this act required to be done," the offending party must forfeit, for every such neglect, all the liquor made by him, and all the vessels used in making the same, together with \$500, to be recovered with costs of suit.

\* We use the word Brewer as including (in the words of the statute) "the owner or occupant of any brewery or premises used, or intended to be used, for the purpose of brewing or making such fermented liquors, or who shall have such premises under his control or superintendence, as agent for the owner or occupant, or shall have in his possession or custody any vessel or vessels intended to be used on said premises in the manufacture of beer, lager beer, ale, porter or other similar fermented liquors, either as owner, agent or otherwise."

In such case the liquor, and vessels used in making and containing it, may be seized and held by the collector until a decision may be had according to law. The seizure must be made, however, within thirty days after the occurrence of the neglect; and the proceedings to enforce the forfeiture must be commenced by the collector within twenty days after the seizure.

These proceedings to enforce such forfeiture of property are to be in the nature of a proceeding *in rem*, in the United States circuit or district court for the district where the seizure is made, or in any other court of competent jurisdiction. (§ 54.)

See COLLECTION OF THE TAX, *ante*, p. 20.

In addition to this general provision, section 56 imposes a penalty of \$500 for any neglect to furnish the assessor or assistant assessor with the monthly abstract, when requested, or to furnish an examination of the books whenever the officer shall lawfully desire it. (§ 56.)

If the duty is not paid to the collector at the time of rendering the account to him, the person chargeable therewith is liable to pay, in addition, ten per cent on the amount of the duties due; and, until paid, they remain a lien upon the brewery, the stills, boilers, vats, and other implements belonging to it. (§ 55.)

*Distrain.*—If not paid, with the addition, within ten days after it shall have become due, the amount may be recovered by distraint and sale of the goods, chattels, and effects of the delinquent; and in such case the officer is required to make an account of the property distrained, a copy of which, signed by the officer, is to be left with the owner, at his dwelling, with a note of the sum demanded, and the time and place of sale.

The officer must thereupon advertise in a newspaper within the county, and post a notice at the post-office nearest the party's residence, or at the court-house of the same county, if within ten miles, which notice must specify the articles distrained and the time and place of sale,—the time not to be less than ten days from the date of the notice, and the place within five miles of the place of making the distraint.

If, however, prior to the sale, payment or tender is made of the full amount demanded, together with the costs and disbursements allowed by the State or Territory, the property may be restored.

Otherwise the sale will be had, and the amount due, with

costs, &c., will be retained from the proceeds; and, in addition, a commission of five per cent on the amount collected for the revenue, for the use of the officer.

If any overplus remains, it must be paid over to the party whose goods have been distrained. (§ 55.)

See COLLECTION OF THE TAX, *ante*, p. 20.

#### BEND AND BUTT LEATHER.

See LEATHER, *infra*.

#### BENZOIN.

See COAL OIL, *infra*.

#### BICARBONATE OF SODA.

See SALERATUS, *infra*.

#### BILLIARD TABLES.

[License, if kept for hire, \$5 for each table; if kept for use, duty, \$10 for each table.]

##### 1. THE DUTY.

*Public tables.*—The license to keep a "billiard room," having one table, is \$5; and when having more than one, \$5 for each additional table.

Every place or building where billiards are played, and open to the public, with or without price, is regarded a billiard room under the act. (§ 64, subd. 20.)

*Private tables.*—The duty on tables kept for private use is \$10. (§ 77.)

If a private person keeps more than one table, he must pay \$10 for each. (Com'r Boutw., *N. Y. Ev. Post*, Oct. 21, '62.)

The wording of section 77—"keeping any carriage, yacht, and billiard table"—has led to the inquiry, whether a person must possess *all* these to be made liable to the duty. It is very clear that the duty is imposed upon persons keeping *any* carriage, and, as a second class, such as may possess *any* yacht, and, as a third class, such as may possess *any* billiard table. (Com'r Boutw., *Decis. No. 15.*)

Of course, tables kept for private use, and so taxed, do not require a license; and, if licensed for public use, are not subject to the private-use duty. (Com'r Boutw., *N. Y. Trans.*, Oct. 31, '62.)

For the manner of obtaining license and perpetuating the same to a successor, &c., see LICENSES, *infra*.



**2. THE DUTY, HOW AND WHEN PAID.**

The duty on billiard tables kept for use or hire is to be paid at the time of rendering the annual statement to the assistant assessor, on the first Monday of May of each year (§ 6). The return does not require an affidavit.

**BLANK BOOKS.**

[Duty, three per cent, ad valorem.]

The commissioner has decided that blank books are a manufacture, and, as such, liable to a tax of three per cent, ad valorem. They are clearly not embraced in the seventy-fifth section, exempting printed books, magazines, pamphlets, newspapers, reviews, and all other similar printed publications. (Com'r Boutw., *N. Y. Trib.*, Nov. 8, '62.)

See STATIONERS, *infra*.

**BOATS.**

Boats, including small ships' boats, canal boats, &c., are subject to an ad valorem duty under the amendatory act of March 3, 1863.

See SHIPS AND VESSELS, *infra*.

**BONDS (Canal and Turnpike).**

[Duty, three per cent on interest or coupons.]

Bonds or other evidences of indebtedness issued by a canal company, slack-water corporation, or turnpike company, payable in one or more years, upon which interest is payable, or coupons representing interest are issued, are subject to a duty of three per cent on their amount.

The company is authorized, after July 1, 1863, to withhold the tax from payments on account of interest or coupons.

This duty is imposed by the amendatory act of March 3, 1863. The requirements concerning returns, payment of the duty, &c., are the same as those obligatory upon railroad companies. The title next following may be consulted for these.

*The penalty for neglect to make returns is \$500. (Act of March 3, '63, § 8, p. 269.)*

Canal and turnpike companies, &c., pay a duty of three per cent on declared dividends, also.

See DIVIDENDS (CANAL); and DECISION No. 84, page 306, *infra*; also, DECISION No. 98, page 312, *infra*.

**BONDS (Railroad).**

[Duty, three per cent on interest or coupons.]

**1. THE DUTY.**

Railroad bonds or other such evidences of indebtedness, issued by railroad companies, upon which interest is payable, or coupons representing the interest are issued, are subject to a duty of three per cent on the amount of such interest or coupons. The company are authorized to withhold this amount from their payments of the interest or coupons due after September 1, 1862; and the duties so deducted, and certified by the president or other proper officer, is a receipt and discharge, to that amount, of the company. (§ 81.)

The company may assume the tax, provided the Government receives its just proportion—the amount paid to stock or bond holders being ninety-seven one-hundredths of the sum upon which three per cent is estimated. (Com'r Boutw., Decis. No. 66.)

When bonds are issued by a State, county, city, or town, in aid of a railroad company, whereof the interest is to be paid by the company, the Government tax of three per cent must be withheld, although neither bond nor coupon may express the liability of the company, such an arrangement being virtually an endorsement of the company's bonds by the said State, city, or town; whether the interest is paid by the State, county, city, or town, and received from the railroad company, or paid by the company directly to the bondholders, is immaterial. In either case the managers of the company must account to the Government for the tax. Where bonds are issued by, or in aid of, a railroad company, the interest of which is made payable in a foreign country, such interest will not be subject to taxation under the eighteenth section of the excise law. (Comr. Boutw., Decis. No. 84.)

See DECISION No. 98 on page 312.

**2. PAYMENT OF THE DUTY.**

The duty is to be paid semi-annually.\*

*Returns* are to be made to the commissioner, at Washington, within thirty days after the time fixed for paying any interest on bonds or coupons, or dividends, and as often as every six months,\* containing an account of the duties received

\* Commissioner Boutwell, in Decision No. 66, decides that returns are to be rendered *quarterly*, commencing October 1, 1862.

and chargeable on the interest, during the time such duties have accrued, or should accrue, remaining unaccounted for (§ 81). The first return will only include such payments of interest, coupons, &c., as were due in the month of September.

Returns must be made, whether any tax has accrued or not. (Com'r Boutw., Decis. No. 65.)

To the return must be annexed an affidavit, by the president, treasurer, or other proper officer, that the same contains a true and faithful account of the duties withheld by the company on their payments to bondholders, &c., and received, or not accounted for, during the time they have or should accrue. (§ 81.)

The amount of tax should be deposited with the nearest assistant treasurer of the United States, or designated depository, and the original certificate therefor sent with the return; but, if more convenient, payment may be made by draft, or in treasury notes. (Com'r Boutw., Decis. No. 66.)

*Penalties.*—And for default in rendering such verified return, the company is liable to a penalty of \$500, besides fifty per cent additional on the amount of the duties. (§§ 81, 11.)

The penalty for neglect to *pay* the duties at the proper time is \$500. (§ 83.)

For duties on *dividends* of railroad stock, see *DIVIDENDS, infra*.

### BONE.

[Duty, three per cent, ad valorem.]

Manufacturers, in whole or in part, of bone, not otherwise provided for, are subject to a duty of three per cent, ad valorem. (§ 75.)

See *MANUFACTURES, infra*.

### BOARDS.

See *DEALER ; LUMBER, infra*.

### BOOKS.

Books, magazines, pamphlets, newspapers, and other similar printed publications, are not regarded as manufactures upon which any duty is leviable. (§ 75, last clause.)

Publishers of books are to be deemed dealers, and require a dealer's license.

See *PUBLISHERS, infra*. *BLANK BOOKS, supra*.

**BOOT AND SHOE MAKERS.**

Boot and shoe makers, among others, are exempt from duty, on their manufactures, to the amount of \$1,000; and, for any excess beyond that amount, pay a duty of one per cent, ad valorem, instead of three per cent. (*Act of March 3, '63*, § 1, p. 262.) See DECISION No. 83, *post*, p. 308

**BOWLING ALLEYS.**

[License, \$5 for each alley.]

The license fee is \$5 for one alley; for more than one, \$5 for each additional alley.

Every place or building where bowls are thrown, and open to the public, with or without price, is regarded a bowling alley under the act. (§ 64, subd. 20.)

No duty is imposed upon bowling alleys kept for private use.

It may be deemed also, we think, that a bowling alley, kept in a gymnasium, as a part of the apparatus, and used as such by pupils, is not taxable.

**BRASS.**

Manufactures of brass, not otherwise provided for, are subject to a duty of three per cent, ad valorem. (§ 75.)

See MANUFACTURES, *infra*.

By the amendatory act of March 3, p. 260, *infra*, rolled brass is subject to a duty of one per cent, ad valorem.

**BREWERS.**

[License fee, \$25 to \$50.]

A brewer manufacturing 500 barrels or over per year, must pay \$50 for a license; less than 500 barrels, \$25.

*Defined.*—By brewers is included every person who manufactures fermented liquors of any name or description for sale, from malt, wholly or in part. (§ 64, subd. 10.)

Cider and vinegar are not fermented liquors. (Com'r Boutw., *N. Y. Trib.*, Jan. 27, '63.)

The license authorizes the brewer to manufacture fermented liquors, and to sell at wholesale—*i. e.*, in quantities of more than three gallons at one time, at his brewery.

Brewers and distillers are excepted from those persons requiring the license of a wholesale liquor dealer. (§ 64, subd. 3.)

They are not excepted from those requiring the retail liquor-dealer's license.

Brewers are not authorized, therefore, to sell in quantities of less than three gallons, at their brewery, without a retail liquor-dealer's license.

A brewer who sells his beer, ale, &c., from a storehouse or vault, not connected with his brewery, must take out a license as a wholesale liquor dealer, in order to make such sales. His license as a brewer only enables him to sell at his brewery. (*A. Com'r Estee, N. Y. Trans.*, Nov. 14, '62.)

By a subsequent regulation, issued by the commissioner, this rule is somewhat altered.

Under the fifty-first and sixty-fourth sections of the excise law, any manufacturer of beer, lager beer, or ale, may sell the same at the place of manufacture, in quantities of more than three gallons at one time, to the same purchaser, without being required to take a license as a wholesale dealer in liquor. Any manufacturer of beer, lager beer, or ale, who owns or hires a depot or warehouse for the storage and sale of such beer, lager beer, or ale, in a collection district other than that in which the manufactory is situated, and who shall have obtained a permit for the removal of such beer, lager beer, or ale, agreeably to the provisions of the fifty-first section of the excise law, may sell such beer, lager beer, or ale, of his own manufacture, removed as aforesaid, at such depot or warehouse, in quantities of not more than three gallons at one time, to the same purchaser, without being required to take a license as a wholesale dealer in liquor.

Nothing herein contained shall be construed to authorize the sale, at such depot or warehouse, of any beer, lager beer, or ale not removed from the place of manufacture in the manner prescribed by said fifty-first section, or of any distilled spirits, wines, or fermented liquors not manufactured and removed as aforesaid. (*Comr. Boutw.*, Decis. No. 57.)

The requirements of the statute relative to brewers' licenses are much less stringent than those relating to distillers' licenses.

No special form of application for a license is given, and we cannot discover that the statute requires a bond, as in the case of distillers.

The commissioner has, however, intimated that brewers

must give bonds same as distillers before license can be granted. (Comr. Boutw., *N. Y. Trans.*, Oct. 27, '62.)

The same bond as is required of distillers, in case of the removal of spirits before payment of duties, may also, doubtless, be given by brewers in the same cases.

For duty on beer, the brewer's records, &c., see *BEER*, *supra*.  
For provisions relating to malt, see *MALT*, *infra*.

### BRICKS AND BRICK-KILNS.

Bricks are declared not to be a manufacture made liable to any tax. (§ 75, last clause.)

But the owners of brick-kilns are decided by the commissioner to be dealers, requiring a license as such. (Com'r Boutw., *N. Y. Trans.*, Oct. 30, '62.)

The commissioner decides the making of *fire brick* is a manufacture, and that makers must pay three per cent, ad valorem, and render monthly returns.

### BRIDGES.

See *TOLL-BRIDGES*, *infra*.

### BRISTLES.

[Duty, three per cent, ad valorem.]

Manufacturers of bristles, not otherwise provided for, are subject to a duty of three per cent, ad valorem. (§ 75.)

### BROKERS.

Five classes of brokers are enumerated as requiring a license. These are—

1. Brokers in money and securities.
2. Commercial brokers.
3. Land-warrant brokers.
4. Cattle brokers.
5. Insurance brokers.

#### 1. BROKERS IN MONEY AND SECURITIES.

[License fee, \$50.]

*Defined.*—Any person whose business is to purchase or sell stocks, coined money, bank notes or other securities for himself or others, or who deals in exchanges relating to money, is regarded a broker under the act. (§ 64, subd. 13.)

Contracts for the purchase or sale of coin or bullion are subject to a stamp duty under the amendatory act of March 3, 1863.

See Book IV., STAMP DUTY, p. 198.

*Incorporated banks* or private bankers dealing in coin, currency, and exchange, are subject to license as brokers. But an incorporated bank does not require the license merely because it sells its drafts upon funds accumulated in another bank in another place, or in the same place. (Comr. Boutw., Decis. No. 43.)

*So a private banker*, doing a brokerage business—*e. g.*, dealing in money, or exchange, or land warrants—must take out licenses for each of such kinds of business, as banker, broker, and land-warrant broker. (Comr. Boutw., *N. Y. Her.*, Oct. 18, '62.)

As to difference between banker and broker, see BANKERS, *supra*.

## 2. COMMERCIAL BROKERS.

[License fee, \$50.]

*Defined.*—"Any person or firm, except one holding a license as wholesale dealer or banker, whose business it is, as the agent of others, to purchase or sell goods, or seek orders therefor in original or unbroken packages, or produce, or to manage business matters for the owners of vessels, or for the shippers or consignors of freight carried by vessels, or whose business it is to purchase, rent, or sell real estate for others," is regarded a commercial broker. (§ 64, subd. 14.)

It will be seen that licensed wholesale dealers and bankers are permitted to act as commercial brokers without an additional license.

The business of a commercial broker is strictly to buy and sell, or to seek orders for *others*. One buying produce, for instance, strictly on his own account, and sending it to another market, there to be sold on commission, is not liable to any tax in consequence of such buying. (Com'r Boutw., *N. Y. Trans.*, Oct. 26, '62.)

So, if he purchases solely for one firm, he needs no license; but if he purchases for more than one firm, he must take out the license of a commercial broker. (Com'r Boutw., *N. Y. Trans.*, Nov. 8, '62.)

*House agents*, and real-estate agents, generally so called, require a commercial-broker's license.

Where a person, however, is engaged in settling an estate, and collects rents merely as an incident thereto, and not as an occupation, he is not liable to a license as a commercial broker. But if he, in any way, indicates his readiness to engage in such business, and accepts it whenever offered, then he is liable to the license tax. The amount of business actually done is not conclusive evidence on the point. The main inquiry is, "Is it the person's occupation to purchase, rent or sell real estate to others?"

Nor is it necessary that he should be engaged exclusively in this employment. (Com'r Boutw., Decis. No. 12.) Of course a lawyer, or in fact any one, may collect rent for clients, without the license, where such business is not solicited, such as by advertisement, sign or otherwise.

Persons who merely *collect* rents, but who neither purchase, rent nor sell real estate for others, do not, by such act, become commercial brokers; but when they purchase, rent or sell real estate for others, they must take license.

The question of fact must be decided in each case by the assistant assessor, from whose decision an appeal may be taken to the principal assessor, as in other cases. (Com'r Boutw., Decis. No. 59.)

*Transportation agents*.—Agents of commercial lines and transportation companies, if they transact business for owners of vessels, or consignors of freight, must take out licenses as commercial brokers. (Com'r Boutw., *N. Y. Trans.*, Dec. 5, '62.)

See AGENTS, *supra*.

### 3. LAND-WARRANT BROKERS.

[License fee, \$25.]

*Defined*.—Any person "who makes a business of buying and selling land warrants, and of furnishing them to settlers or other persons, under contracts to have liens upon the land procured by means of them, according to the value agreed on for the warrants at the time they are furnished," is regarded a land-warrant broker under the act. (§ 64, subd. 15.)



## 4. CATTLE BROKERS.

[License fee, \$10.]

*Defined.*—Any person whose business it is to buy and sell and deal in cattle, hogs or sheep, is considered a cattle broker. (§ 64, subd. 24.)

This does not include dealers in horses, who are specially licensed as such; and a person licensed as either, cannot do business as the other.

The dealing is in live stock, and not in slaughtered cattle. Butchers, therefore, and persons who buy cattle solely for slaughter, are not liable to the license as cattle brokers.

See BUTCHERS, *infra*.

A person who buys cattle to stock his own farm, and by keeping them thereon adds materially to their value, cannot be considered a cattle broker. If, however, it is his business to buy and sell, without making material additions to the intrinsic value of the animals, he is liable to taxation as a cattle broker.

The profits of the former, if any, are those of a producer; the profits of the latter, if any, are those of a trader. (Com'r Boutw., Decis. No. 47.)

## 5. INSURANCE BROKERS.

[License fee, \$10.]

Insurance brokers or agents pay \$10 for a license. Any person who acts as agent of any insurance company or companies is an insurance broker or agent. No license, however, is required of a broker whose receipts, as such, are less than \$600 a year. (§ 64, subd. 38, p. 252.)

See AGENTS, *supra*.

## BUILDERS AND CONTRACTORS.

[License fee, \$25.]

*Defined.*—Every person whose business it is to construct buildings, or ships, or bridges, or canals, or railroads, by contract, is regarded as a builder and contractor.

But no license is required from a person whose building contracts do not exceed \$2,500 a year. (§ 64, subd. 35, as amended, p. 251.)

The furnishing of the materials for a house by the person who has the contract for the building of the same, does not

constitute him a dealer. (Com'r Boutw., *N. Y. Trans.*, Nov. 15, '62.)

### BUILDING STONE.

Building stone is not to be deemed a manufacture, subject to duty. (§ 75, last clause.)

The commissioner holds that—

1. Under the provision of section 75, by which building stone is declared not to be a manufacture, stone designed for building, whether rough-hewn or carved, is not subject to taxation, provided that articles manufactured from stone, marble or slate, such as fireplaces and mantle-pieces, even though designed for particular buildings, but which are of such a nature that they might be introduced into the commerce of the country as articles of traffic, are subject to a tax of three per cent, ad valorem.

2. Other manufactures of stone, marble or slate, which are recognized as articles of traffic, are subject to a tax of three per cent, ad valorem. (Com'r Boutw., *N. Y. Trib.*, Dec. 26, '62.)

Parties who prepare building stone for the market, doubtless, require a dealer's license.

See DEALERS, *infra*.

### BULLION.

"Bullion, in the manufacture of silverware," is not regarded as a manufacture. (§ 75, last clause.)

The exemption relates to gold and silver as raw materials.

Gold and silver foils and *goldware* are not mentioned as exempt, and, being manufactured of materials "not otherwise provided for," are subject to the duty of three per cent, ad valorem. (Com'r Boutw., *N. Y. Trib.*, Nov. 20, '62.)

*Contracts for the purchase or sale of bullion* are subject to stamp duty under the amendatory act of March 3, '63. See Book IV., STAMP DUTIES.

### BURNING FLUID.

Burning fluid is included among those articles not regarded as manufactures, subject to duty as such. (§ 75, last clause.)

But the manufacturer of it is a dealer, under the decision of the commissioner.

See DEALERS, *infra*.

**BUTCHERS.**

[License fee, \$5 to \$10.]

*Defined.*—Every person whose business it is to sell butchers' meat at retail, is to be regarded a butcher under the act. (§ 64, subd. 39, as amended, p. 252.)

This license dispenses with the retail-dealers' license, before required of butchers. (*Ib.*)

A butcher, selling meat exclusively from a cart or wagon, by himself or agent, is to pay only \$5 for a license. Having taken out such a license, he does not require a peddler's license. (*Ib.*)

No license is required of a butcher whose annual sales do not exceed \$1,000. (*Ib.*)

For the duty on slaughtered meat, see **SLAUGHTERED CATTLE, Hogs, &c., *infra*.**

**BUTTER AND CHEESE.**

Butter and cheese are included among those articles not regarded as manufactures, subject to duty as such. (§ 75, last clause.)

Manufacturers of butter and cheese, for sale, must be deemed dealers, under the commissioner's decision. (Com'r. Boutw., *N. Y. Trans.*, Oct. 30, '62.)

But see **DEALERS**, p. 77, and **MILK**, p. 143, *infra*.

This includes dairymen and those making a business of manufacturing butter and cheese. We cannot consider that farmers, who occasionally bring butter or cheese to market as a part of the usual farm produce, are dealers, requiring a license.

The commissioner has decided that they are not peddlers. See **PEDDLERS**, *infra*.

**CALICO.**

See **CLOTH; PRINTING AND DYEING**, *infra*.

**CANDLES.**

[Duty, three per cent, ad valorem.]

The duty on candles, of whatever material made, is three per cent, ad valorem. (§ 75.)

The commissioner has decided that the rendering of tallow

is not a manufacture, and consequently tallow is not subject to any tax. (Com'r Boutw., *N. Y. Trans.*, Nov. 11, '62.)

*Red oil*, or oleic acid, produced in the manufacture of candles and used in the manufacture of soap, is exempt. (§ 75.)

*Tallow chandlers* require a license. See TALLOW CHANDLERS, *infra*.

#### CANS (Air-tight).

See PRESERVES, *infra*.

#### CARDS (Playing).

See STAMP DUTY, Book IV., *post*.

#### CARPENTERS.

*Manufacturers*.—A carpenter, who has a shop, and manufactures articles, such as doors, sashes, blinds, &c., is undoubtedly a manufacturer under the act, and requires a license as such, if his business receipts exceed \$1,000.

*Dealers*.—Commissioner Boutwell decides that carpenters, who charge a profit on the amount of material they use when employed to do work in the regular course of their trade, are liable to license as retail dealers, when their annual sales exceed \$1,000. (Decis. Jan. 9, '62.)

Practical carpenters, who labor on buildings, are not to be deemed "architects," requiring licenses as such.

A carpenter is also taxable for his manufactures of wood three per cent, ad valorem (§ 75), if his annual income therefrom exceeds \$600. (Com'r. Boutw., *N. Y. Trib.*, Oct. 18, '62.)

*Boards*, shingles, and all other lumber and timber, are exempt from taxation; and it may be a question, when lumber, by reason of work upon it, becomes a manufacture.

But, in general, the exempt articles may be said to become taxable so soon as, by reason of work upon them, they become useful and salable as distinct articles of commercial traffic.

Consult BUILDERS, *supra*, and PLAINING MILLS, *infra*.

*For repairs* and work performed on buildings, which are not manufactures, he is not liable to tax. (Com'r Boutw., *N. Y. Trib.*, Oct. 18, '62.)

See MANUFACTURES, *infra*.

**CARPETS.**

Carpets, when prepared by dealers in carpeting, and upon special orders to suit specified rooms, are not regarded as manufactures, liable to taxation as such. (Com'r Boutw., Decis. No. 37.)

But carpets generally, being a manufacture of cotton or wool, are unquestionably liable to the three per cent ad valorem tax on manufactures. (§ 75.)

The sewing of carpets cannot be considered a distinct manufacture.

See AWNINGS, BAGS, &c., *supra*.

**CARRIAGES.**

## 1. THE DUTY.

*Drawn by one horse.*—A tax of \$1.00 is imposed on carriages, kept for use, for hire, or for passengers, drawn by one horse, and valued at \$75, or over, including the harness.

This includes any carriage, gig, chaise, phaeton, wagon, buggy-wagon, carry-all, rockaway, or other like carriage, the body of which rests upon springs of any description, kept for use, for hire, or for passengers, and not exclusively employed in husbandry or for the transportation of merchandise. (§ 77, as amended p. 266.)

*Drawn by two or more horses.*—A tax of \$2.00 is imposed on carriages of like description, drawn by two horses.

This includes any coach, hackney coach, omnibus, or four-wheel carriage, the body of which rests upon springs of any description, which may be kept for use, for hire, or for passengers, and not exclusively employed in husbandry or for the transportation of merchandise, valued at \$75, and not exceeding \$200, including the harness used therewith.

When valued above \$200, and not exceeding \$600, \$5.00.

Valued above \$600, \$10.00. (§ 77.)

A carriage or wagon, therefore, without springs, and exclusively employed in husbandry, or for the transportation of merchandise, is not taxable for private use.

Thus, the ordinary farm wagons and cartmen's carts are exempt.

For construction of § 77, see BILLIARD TABLES, *supra*.

## 2. HOW AND WHEN PAID.

Carriages dutiable as above are to be included in the *annual* statement of the tax payer to the assistant assessor of the district. This statement is to be made on or before the first Monday of May of each year, and the duties paid at that time. (§ 6.)

No affidavit is required for this return, either by law or the regulations of the revenue office. (Com'r Boutw., *N. Y. Trans.*, Jan. 3, '63.)

## 3. MANUFACTURE OF CARRIAGES.

Carriages are a manufacture, and liable, as such, to the three per cent ad valorem duty.

The tax is on the full value of the carriage when sold, even though materials used in its construction are articles upon which a duty has been previously paid. (Com'r Boutw., *N. Y. Trans.*, Oct. 27, '62.)

But under the amendment of March 3, 1863 (§ 30), articles manufactured from materials already taxed or exempt, when the increased value of the manufactured article does not exceed five per cent, ad valorem, are exempt from taxation as distinct manufactures.

*Repairs* to old carriages are not subject to a tax. (*Id.*)

*Spokes, hubs, and felloes* are exempt from duty. (*Act of March 3, '63, § 30, p. 264.*)

The manufacturer is to make returns and pay the tax monthly.

See MANUFACTURES IN GENERAL, *infra*.

## CASSIA (Ground).

[Duty, one cent per pound.]

The duty on ground cassia, and all imitations of it, is one cent per pound. (§ 75.)

The duty is to be paid from month to month, as the article is ground and sold, or removed for sale or consumption.

## CASTINGS.

See IRON; MANUFACTURES, *infra*.

**CATTLE AND CATTLE BROKERS.**

See **BROKERS** ; **BUTCHERS**, *supra*, and **SLAUGHTERED CATTLE**, *infra*.

**CEMENT.**

[Duty, twenty-five cents per gallon.]

On cement, made wholly or in part of glue, to be sold in the liquid state, the tax is 25 cents per gallon. (§ 75.)

The duty is to be paid, from month to month, on the amount sold.

*Roman cement* is included among those articles not regarded as manufactures and liable to taxation as such. (§ 75, last clause.)

But dealers in either of these articles must unquestionably obtain a dealer's license ; unless, in the case of cement, a manufacturer's license is obtained.

See **DEALERS**, *infra*.

**CHARCOAL.**

Charcoal is included among those articles exempted from taxation as manufactures (§ 75, last clause) ; but a manufacturer of charcoal must be licensed as a dealer, under the commissioner's decision.

See **DEALERS**, *infra*.

**CHARTS AND MAPS.**

Charts and maps are not to be considered a manufacture, liable to the three per cent ad valorem duty (§ 75, last clause) ; but manufacturers of, and dealers in, charts and maps are subject to a license as dealers.

See **DEALERS** ; **PRINTERS** ; **PUBLISHERS**, *infra*.

**CHEESE.**

See **BUTTER**, *supra*.

**CHOCOLATE AND COCOA.**

[Duty, one cent per pound.]

The tax on prepared chocolate and cocoa is one cent per pound (§ 75). The duty is to be paid monthly, on amount made and sold.

**CIDER AND VINEGAR.**

[Duty, three per cent, ad valorem.]

Cider and vinegar are regarded as manufactures and follow the law in that respect. They are dutiable at three per cent, ad valorem. (Com'r Boutw., *N. Y. Trans.*, Oct. 30, '62.)

They are not regarded as fermented liquors. (*Id.*, *N. Y. Trib.*, Jan. 27, '63.)

**CIGARS.**

[Duty, \$1.50 to \$3.50 per thousand.]

**1. THE DUTY.**

The following are the rates of duty upon cigars (§ 75):

On cigars, valued at not over five dollars per thousand, per thousand.....	\$1.50
On cigars, valued at over five and not over ten dollars per thousand.....	2.00
On cigars, valued at over ten and not over twenty dollars per thousand.....	2.50
On cigars, valued at over twenty dollars per thousand.	3.50

The tax is to be paid on *any* amount manufactured; as manufacturers of tobacco do not come within the \$600 limit of section 73, which prescribes that all manufacturers who manufacture less than \$600 worth of goods per annum are exempt from duty.

See TOBACCO, *infra*.

**2. HOW AND WHEN PAID.**

The duty is to be paid by the manufacturer, from month to month, on the number made and sold.

*Employees.*—When persons are employed by tobacconists or dealers in cigars, whether in the same town or at a distance, to manufacture cigars, and for this purpose receive tobacco from their employers to be made into cigars, which, when finished, are returned to the employers, such persons may not be required to pay the value thereof, but may ship them to the employer on complying with certain requirements, for which see MANUFACTURERS, *infra*.



## 3. LICENSE TO MANUFACTURE.

A manufacturer of cigars requires a manufacturer's license; and having such a license, he is not liable to license as a tobaccoist, if he sells strictly at his manufactory.

A tobaccoist's license, however, does not authorize the manufacture of cigars.

## CIRCUSES.

[License fee, \$50.]

*Defined.*—"Every building, tent, space or area where feats of horsemanship or acrobatic sports are exhibited," is regarded a circus under the act. (§ 64, subd. 18.)

The proviso in subdivision 19 of section 64, permitting jugglers to exhibit under their license at any place in one State, may doubtless be construed to include circuses and theatres.

Where theatrical performances and jugglery are exhibited under the same tent or building, and form a part of circus performances, three licenses are, doubtless, necessary. (§ 61.)

## CLAIM AND PATENT AGENTS.

[License fee, \$10.]

Claim agents and agents for procuring patents are required to pay ten dollars for each license.

*Defined.*—Every person whose business it is to prosecute claims in any of the executive departments of the Federal Government, or to procure patents, is deemed a claim or patent agent, as the case may be. (§64, subd. 33.)

We think the two licenses are distinct, under the wording of the statute, and a person licensed as a claim agent is not thereby authorized to procure patents.

The commissioner has decided that persons who hold themselves out to the public as prepared to prosecute claims against the Government in any of the executive departments, whether such claims be actually prosecuted by them personally or by their correspondents, are required to take out licenses as claim agents. (Com'r Boutw., Decis. No. 45.)

If a lawyer, as an incident to his other business, occasionally prosecutes claims against the Government, he need not be licensed as a claim agent.

If, however, he makes it a part of his practice to solicit such business, either by advertisement, sign, or otherwise, then

he must be licensed as such. (Com'r Boutw., *N. Y. Trans.*, Nov. 11, '82.)

### CLOCKS AND CLOCK MOVEMENTS.

[Duty, three per cent, ad valorem.]

The duty on clock movements made to run one day is five cents each; made to run more than one day, 10 cents each (§ 75). By the amendatory act of March 3, 1863 (p. 260, *infra*), the specific duty on clock movements is altered to an ad valorem duty of three per cent upon all clocks and clock movements uncased. And any duties which may have been paid on clock movements used for clocks or time-pieces are to be deducted from the three per cent tax on clocks.

### CLOTH.

[Duty, three per cent, ad valorem, or on increased value.]

#### 1. THE DUTY.

The statute contemplates—

1. Cloth, before it has been dyed, printed, bleached, or prepared in any other manner; and,

2. Cloth, after it has been dyed, printed, bleached, or otherwise prepared, and “manufactured into fabrics.”

A duty of three per cent, ad valorem, is imposed on the first of these kinds; and when this duty has been paid, and the cloth is dyed, &c., or worked into fabrics, the duty on the second kind, so prepared, is levied only upon its *increased value* over the unprepared material.

The first class, or

#### *Unprepared Cloth,*

includes all textile or knitted or felted fabrics of cotton, wool, or *other material*, unbleached, &c. (§ 75.)

And, in order that a third duty may not be imposed on cloths, the thread or yarn used in the manufacture of knitted fabrics, or in the weaving of cloth, when the spinning and weaving are carried on separately, is exempt from duty as manufactures.

#### *Prepared Cloth.*

The duty of three per cent on prepared cloth, or cloth manufactured into fabrics, is upon the *increased value* thereof;

but this is contingent upon the payment of the ad valorem duty on the unprepared material.

"Manufactured into other fabrics," does not mean manufactured into clothing, caps, &c., but is confined to those cases where the last manufacture is still a "fabric,"—as printing cloths made into prints, cloths prepared by a covering of India rubber, &c.

It is these kinds of manufactured fabrics to which the proviso refers—that the tax is to be assessed only on the increased value of the cloth on which a duty has already been paid. (Com'r Boutw., *N. Y. Her.*, Oct. 22, '62.)

It does not apply to "manufactures of cotton, wool, silk," &c.—such as clothing, gloves, caps, &c., which are subject to the three per cent ad valorem tax as "*manufactures*."

The proviso treats of cloths as "fabrics," and provides for a tax on the increased value of such cloths as "fabrics," when they have been subjected to the process of dyeing, bleaching, printing, or manufacturing. In the language of commerce and trade, cloth is a fabric, but a coat is not. (Com'r Boutw., Decis. No. 36.)

It refers only to such preparations of cloth by which the cloth remains intact. If, however, the cloth is cut, so as to be made into garments, then the tax must be paid on the full value.

Thus, manufactured clothing, caps, gloves, neck-ties, &c., manufactured from cloth previously taxed, are subject to the three per cent tax on their full value when finished. (Com'r Boutw., *N. Y. Trans.*, Nov. 7, '62; *id.*, Oct. 27, '62.)

Under this provision, white cloths may be dyed and printed; brown cloths may be bleached; oil-cloth, India-rubber cloth, or enameled cloth, may be manufactured or prepared, and the manufacturer be liable to taxation for the increased value of his product over the value of the basis or primary manufacture on which the tax shall have been previously paid.

This construction appears to give reasonable and adequate scope to the language employed; and this proviso, being an exception to the general policy of the law, which is to tax such distinct manufacture of its full commercial value, no broader construction can properly be made. (Com'r Boutw., Decis. Nos. 5 and 36.)

Goods printed since August 31st, upon cloths manufactured previous to September 1st, 1862, on which no duty or

tax has been paid, are liable to assessment upon the present value of the goods. The provision of section 75 authorizes an assessment upon the *increased value* only when the duty or tax shall have been paid before the cloths were so prepared or printed. (Com'r Boutw., Decia. No. 5.)

By the act of March 3, 1863, it is provided, that on all cloths of silk, cotton, or other material, dyed, printed, bleached, manufactured, or prepared into other fabrics, which were removed from the place of manufacture prior to the 1st of September, 1862, or which have been or shall be imported, the duty of three per cent shall be assessed only upon the increased value thereof. And whenever the duty has been assessed, or assessed and collected at the full value upon cloths of silk, cotton, or other material manufactured and removed from the place of manufacture prior to the 1st of September, 1862, or which were imported prior to the 3d of March, 1863, and which have been dyed, printed, bleached, manufactured, or otherwise prepared, since September 1, 1862, the commissioner, subject to the regulation of the secretary of the treasury, may refund and pay back such proportion of said duties as were assessed upon the value of such cloths before the same were so dyed, printed, bleached, manufactured, or otherwise prepared. (§ 30, page 264, *infra*.)

For an exposition of this provision, see Decision No. 85, Appendix V., p. 306.

*Calico printers*, and other manufacturers of cloth into fabrics, are liable to be taxed for articles of their manufacture when sold or removed. (Com'r Boutw., *N. Y. Trans.*, Nov. 17, '62.)

## 2. PAYMENT OF THE DUTY.

The duty is payable, from month to month, on the amount made and sold; of which, also, returns are to be rendered, as of a manufacture.

## CLOTHING.

[Duty, three per cent, ad valorem.]

### 1. THE DUTY.

Clothing must be included among those "manufactures of cotton, wool, silk, worsted," &c., "or of other materials not otherwise provided for," which are subject to a duty of three per cent, ad valorem.

It is claimed that the material or materials of which clothing is made are not enumerated, nor covered by the phrase, "or of other materials." This interpretation does not seem to be justified by the language of the provision, nor sustained by the general policy of the law.

As leather is the material of which shoes are made, or paper the material of a variety of manufactures, so cloth may properly be regarded as a principal material in the manufacture of clothing, and as such is covered by the phrase, "or of other materials," in the section of the law before referred to. It would also be a reasonable construction of the provision under consideration to say, that the tax of three per cent, ad valorem, is to be levied upon all manufactures of which "cotton" is the material, of which "silk" is the material, of which "worsted" is the material, "wholly or in part," and so on through the list of articles enumerated in the statute.

This construction would cover clothing, as it is a manufacture of which cotton, and wool, and silk, and worsted, wholly or in part, are the ultimate materials of which it is composed. But using the language of the statute as the same language is used in daily business, it seems altogether reasonable to speak of cloths of the various sorts as the materials of which clothing is manufactured.

Hence, upon either construction of the provision of the law, clothing must be regarded as a manufacture, subject to an ad valorem duty of three per cent.

It is the decision of the commissioner that clothing is a manufacture, and subject to taxation at the rate of three per cent, ad valorem,—the value to be returned by the manufacturers, or estimated by assessors, in the manner pointed out by the statute. (Com'r Boutw., Decis. No. 36.)

See CLOTH, *supra*.

This principle is somewhat modified by the amendments to the act, adopted March 3, 1863, which provide that articles—*e. g.*, garments—manufactured from materials upon which internal or import duties are imposed, or which are exempt, where the increased value of the manufactured article does not exceed five per cent, ad valorem, shall be exempt from duty as a separate manufacture.

See MANUFACTURES IN GENERAL, article ii., *infra*.

For the duty on custom-work, see TAILORS, *infra*.

## 2. HOW AND WHEN PAID.

The duty is to be paid by the manufacturer, from month to month, upon the amount made and sold; and returns of the same are to be rendered to the assistant assessor of the district where the manufacture is carried on.

*Who is the manufacturer.*—The work of manufacturing clothing is generally performed by persons who are not the owners, and who receive the garments cut, and return them, completed, to the owners. This does not constitute them “manufacturers.” An operative employed in the manufacture of a coat can no more be regarded as the manufacturer than the weaver of cloth in a mill. (Com’r Boutw., Decis. No. 36.)

When persons receive from a manufacturer of clothing, whether in the same town or at a distance, garments to be made, and, when finished, to be returned to the manufacturer or owner, such persons need not pay the three per cent duty, on complying with the following regulation:

On the request of the assistant assessor, they must make out a list, subscribed and sworn; which list must contain the quantity of garments made up during each month, and, as near as may be, the value thereof; together with the name and residence of the person for whom the labor has been performed. Such list is to be transmitted, by the assessor receiving the same, to the assessor of the district wherein the owner of the goods resides, or has his usual place of business, and there the duty is to be paid by the actual owner of the goods. (Com’r Boutw., Decis. No. 7.)

## CLOVES (Ground).

[Duty, one cent per pound.]

The duty on ground cloves, and all imitations of it, is one cent per pound (§ 75); to be paid monthly.

## COAL.

[Duty, three and a half cents per ton.\*]

A duty of three and a half cents per ton is imposed on

\* The treasury department has decided that the measure of a ton, in making assessments for the internal revenue, shall be two thousand two hundred and forty pounds, in all cases, under the excise law, unless the contrary is specified.

all mineral coals, except such as are known in the trade as pea coal and dust coal. (§ 75.)

It is specially provided, that for all contracts of lease of coal lands made before April 1, 1862, the lessee shall pay the tax (§ 75). By an amendment to the law, all duties on coal, mined and delivered by coal operators at the mines, on contracts made prior to July 1, 1862, are to be paid by the purchaser. (§ 75, as amended, p. 257.)

### COAL AND ROCK ILLUMINATING OILS.

[Duty, eight to ten cents per gallon.]

#### 1. THE DUTY.

A duty of ten cents per gallon is imposed on "coal illuminating oils" refined and produced by the distillation either, 1, of coal; 2, of asphaltum; 3, of shale; 4, of peat; 5, of rock oil, or petroleum; or, 6, of any other bituminous substances used for like purposes. (§ 75.)

A duty of eight cents per gallon is imposed on illuminating coal oil refined and produced by the distillation of coal *exclusively* (§ 75). The oil is not, we think, subject to this tax until so refined that it becomes useful as an "illuminating oil."

*Exempt.*—Where coal illuminating oil is proved to have been distilled prior to September 1, 1862, whether removed for consumption or sale, or not, it is exempt. (*Act of March 3, '63*, § 12, p. 242.) Asphaltum, shale, and peat are not used to any extent in this country for producing illuminating oils.

The two substances used are coal, and rock oil, or petroleum.

*Coal oil* is extracted from coal by the use of retorts, and then distilled and refined.

From this the illuminating oil, called *Kerosine*, is produced, and is subject to a duty of eight cents per gallon. *Kerosine*, so called, is also produced from rock oil, or petroleum, and this is dutiable at ten cents per gallon. The first product of distillation is *Benzole*, which, when refined and deodorized, becomes *Naptha*. These clearly cannot become liable to the duty on coal illuminating oils, but come under the head of manufactures, and are taxable at three per cent, ad valorem.

*Rock oil*, or crude petroleum, is a natural production, welling from the ground. The second product is the illuminating material, which, when refined and deodorized, is called

"refined petroleum." It is also called *Kerosine*. This is properly the illuminating oil, and is subject to the duty of ten cents per gallon. We doubt whether the next product, called "heavy oil," used for lubricating purposes, is not exempt from the tax—this substance being unfit for illuminating purposes—unless it may be called a vegetable oil, and liable to taxation as such (see OILS), or taxable as a manufacture. The residue, called "still bottoms," or *Coal or Petroleum Tar*, used for making gas, is specifically exempted from taxation. (§ 75.)

*Paraffine*.—A substance called Paraffine is produced from coal oil, and in less quantities from petroleum, from which candles are made. This substance is exempt from any duty. (§ 75.)

The candles thus produced are subject to three per cent *ad valorem* duty.

## 2. PAYMENT OF THE DUTY.

The duty is to be paid on sale or removal from the distillery, except as stated below.

*Removal for export*.—Refined coal oil, when the duties thereon exceed \$300, and where the owner has not failed in performing any obligation previously given the United States, may be removed from the place of manufacture, for the purpose of being exported, without first paying the duties thereon, in the following manner :

1. The quantity of oil so removed must first have been ascertained by inspection.
2. The written permission of the collector or deputy must be obtained, authorizing the removal.
3. On application for such permit, the owner must make oath, before the collector or deputy, that he intends to export the oil, and that he desires to obtain the permit for no other purpose whatever.
4. The owner must then give a bond to the United States, with sufficient sureties, in at least double the amount of the duty, conditioned that he will export the oil, or pay the duties thereon, within the time stated in the bond.

The bond is canceled on the payment of the duties with interest and all proper charges, if the oil has not been exported, or upon proof that it has been duly exported.

On breach of the obligations of the bond, the collector forwards it to the commissioner, who gives it to the first



controller of the treasury, who proceeds thereon in the same manner as in the case of delinquent collectors. (§ 47.)

*Removal for refining.*—The same provisions are applicable to distillate removed for refining.

The commissioner decides that collectors may grant permits to producers of coal oil not refined, and known as distillate, to remove such distillate from the place of production, for the purpose of refining the same elsewhere, upon condition that the producer or owner first give bonds, to the satisfaction of the collector of the district where the same is produced, that the distillate shall be refined, and the tax or duty thereon paid to the collector of the district where the same shall be refined; *provided*, however, that the oil, when refined, may be bonded for exportation under the regulations relating to the exportation of coal oil, above given.

It is the duty of the collectors and deputy collectors, before granting a permit for the removal of distillate for this purpose, to cause the casks to be marked in such a manner that they may be identified; and the permit must contain an accurate description of such marks; and a copy of the permit must be transmitted to the collector of the district to which the distillate is to be removed. (Com'r Boutw., Decis. No. 20.)

See DECISION, p. 313.

With regard to licenses to distillers of coal oil, bonds of distillers, returns, &c., the provisions relating to distillers of spirituous liquors are applicable, as well as all other provisions designed for the purpose of ascertaining the quantity distilled, and securing the payment of duties, so far as deemed necessary. (§ 75.)

For these provisions, see DISTILLERS OF SPIRITS, *infra*.

Section 44, relative to distillers' fire-proof warehouse, is also applicable to distillers of coal oil. (Com'r Boutw., Decis. No. 19.)

#### COAL-OIL DISTILLERS.

[License fee, \$50.]

*Defined.*—Any person who shall refine, produce or distill crude petroleum or rock oil, or crude coal oil, or crude oil made of asphaltum, shale, peat, or other bituminous substances, is regarded a coal-oil distiller. (§ 64, subd. 26.)

This includes producers of the original crude oil, as well as refiners and manufacturers of illuminating coal oils.

Distillers of coal oil are subject to all the provisions of the

act, applicable to distillers of spirituous liquors, with regard to licenses, bonds, returns, and all other provisions designed for the purpose of ascertaining the quantity distilled, and securing the payment of duties, so far as the same may be necessary for that purpose. (§ 75.)

For these provisions, see DISTILLERS OF SPIRITS, *infra*.

#### COAL TAR.

Coal tar produced in the manufacture of illuminating gas, and the products of the redistillation of coal tar thus produced, is exempt from duty. (§ 75.)

#### COCOA.

See CHOCOLATE, *supra*.

#### COFFEE (Ground).

[Duty, three mills per pound.]

On ground coffee, and all preparations of which coffee forms a part, or which is prepared for sale as a substitute for coffee, the duty is three mills per pound (§ 75); to be paid monthly.

#### COKE.

Coke is exempt from duty. (*Act of March 3, '63*, § 30, p. 264.)

#### COMMERCIAL BROKERS.

See BROKERS (COMMERCIAL), *supra*.

#### COMMISSION MERCHANTS.

See AGENTS; BROKERS; *supra*. MANUFACTURES, *infra*.

#### CONFECTIONERS AND CONFECTIONERY.

[License fee, \$10.]

Confectioners whose annual gross receipts or sales exceed \$1,000, are required to take out a license. (§ 64, subd. 21; § 65.)

*Defined.*—Every person who sells, at retail, confectionery, sweetmeats, comfits, or other confections, in any building, is regarded a confectioner under the act.

But having taken out a license either as a wholesale or

retail dealer, a confectioner need not take out a license as confectioner. (§ 64, subd. 21.)

So, one licensed to keep an eating-house does not need a confectioner's license. (§ 64, subd. 12.)

*Duty on candy and confectionery.*—The duty on sugar candy, and all confectionery made wholly or in part of sugar, valued at 14 cents per pound, or less, is 2 cents per pound; valued at over 14 cents per pound, and not exceeding 40 cents per pound, the duty per pound is 3 cents; valued at over 40 cents per pound, or when sold otherwise than by pound, the duty is 5 per cent, ad valorem (§ 75, as amended, p. 259). The duty is to be paid monthly, as of a manufacture.

See DECISION on p. 313.

Confectionery can include only sweetmeats and confections in general, not including such articles as pastry, cake, jellies, preserves, &c.

Ice cream, we think, must be included in the term.

### CONCENTRATED MILK

Concentrated milk is not to be considered a manufacture as liable to any duty. (§ 75, last clause.)

*Manufacturers* of the article require a dealer's license, under the decision of the commissioner.

### CONTRACTORS.

See BUILDERS, *supra*. DEALERS, *infra*.

### COOPERS AND COOPERS' STUFF.

A cooper who manufactures a thousand dollars' worth yearly is, doubtless, a manufacturer, and requires a license as such.

See MECHANICS, *infra*.

Staves, hoops, and headings, and also timber only partially wrought and unfinished, for tubs and pails, are included among those articles declared not to be manufactures liable to taxation. (§ 75, last clause.)

This applies, according to the decision of the commissioner, only to these articles in the rough, or when prepared and sold as staves, hoops, or headings. (Comr. Boutw., *N. Y. Times*, Dec. 27, '62.)

A party manufacturing these articles, *exclusively*, does not need a manufacturer's license, but a dealer's.

Shooks (considered as hogsheads), barrels, or similar packages, taken to pieces for greater convenience in packing, are subject to a duty of three per centum, ad valorem, as a manufacture not otherwise provided for. (Com'r Boutw., Decia. No. 60.)

See DEALERS ; LICENSES IN GENERAL, *infra*.

### COPPER.

*On all manufactures* of copper, wholly or in part, not otherwise provided for, the duty is three per cent, ad valorem. (§ 75.)

The duty is to be paid, and returns rendered, from month to month.

*Rolled copper* and yellow sheathing metal, in rods or sheets, are subject to a tax of one per cent, ad valorem, under the act of March 3, 1863 (p. 260, *infra*).

### COTTON (Raw).

[Duty, one half cent per pound.]

Cotton is subject to two rates of duty, one upon the raw article and the other upon manufactures of cotton.

A duty of one half cent per pound is imposed on cotton held or owned by any person on or after the 1st of October, 1862, except such as is owned on or prior to that day by manufacturers of cotton fabrics. Such tax is declared to be a lien upon the cotton in the possession of any person whatsoever. (§ 75.)

*Payment of the duty.*—The duty is to be paid at the place of its production; but the commissioner is authorized to make regulations for its payment at other places.

*The penalty* for moving or transporting cotton from the place of its production, before payment of the tax, is double the amount of the tax. (§ 75.)

*Imported cotton.*—By the amendatory act of March 3, 1863, it is provided that raw or manufactured cotton, the growth or produce of countries beyond the Cape of Good Hope, when imported from this side of the cape, shall pay no greater duty than is imposed on the same article when imported directly.

Cotton is enumerated, under section 75, as a "product, article or-manufacture," upon which the duty must be paid when the cotton is prepared and sold, or ownership in any way changed.

## MANUFACTURES OF COTTON.

The duty on all manufactures of cotton, not otherwise provided for, is three per cent, ad valorem. (§ 75.)

For limitations of this provision, consult CLOTH, *supra*.

*On umbrellas and parasols, made of cotton, the duty is three per cent, ad valorem, by the act of March 3, 1863.*

See MANUFACTURES IN GENERAL, *infra*.

## COUPONS.

See BONDS, *supra*.

## CURRYING.

See TANNING, *infra*.

## DEALERS (Wholesale and Retail).

[Wholesale dealers' license fee, \$25 to \$500; retail dealers' fee, \$10.]

## 1. THE DUTY.

*a. Wholesale dealers*, under the law as it stood before the late amendments, were liable to a license duty of \$50, without regard to the amount of business transacted.

Under the amendments passed during the last session of congress, the amount of license-duty is graduated by the amount of the dealer's business. By this amendment, every person is regarded a wholesale dealer whose business it is to sell foreign or domestic goods (not including distilled and fermented liquors, but *not excluding* drugs, medicines, cigars, snuff, and tobacco), whose annual sales exceed \$25,000. (§ 64, subd. 41, as amended, p. 252.)

The following are the rates of license duty for wholesale dealers, under the amended act:

For annual sales from	\$25,000 to	\$50,000, license	\$25.
"	"	" 50,000 "	100,000, " 50.
"	"	" 100,000 "	250,000, " 100.
"	"	" 250,000 "	500,000, " 200.
"	"	" 500,000 "	1,000,000, " 300.
"	"	" 1,000,000 "	2,000,000, " 500.

For annual sales over 2,000,000, for every additional million an additional \$250.

The amount of business done the previous year must de-

termine the amount of the license duty; and a license for a less amount than that will not be granted, unless the dealer has made, or proposes to make, some change in his business that will obviously reduce his annual sales. If the amount is understated, it may be assessed. (§ 64, subd. 41, as amended.)

A wholesale dealer's license does not authorize one to act as a commercial broker. (*Id.*)

*b. Retail dealers*, whose annual receipts from sales exceed \$1,000, pay ten dollars for a license.

A retail dealer is any person whose business it is to sell goods or merchandise, and whose annual sales are between \$1,000 and \$25,000 per annum. If his sales are less than \$1,000, he is exempt; if over \$25,000, he requires a wholesale dealer's license (§ 64, subd. 40, as amended; and § 64, subd. 5, of the act). This does not include retailers of spirituous or malt liquors, who require a special license (§ 64, subd. 5). It does, however, include dealers in drugs, medicines, cigars, snuff, and tobacco. That is, taking out a license either as a retail or wholesale dealer, exempts one from the apothecary's and tobacconist's licenses. But the apothecary's license does not exempt a retailer of drugs from taking out a retail dealer's license. An apothecary's license authorizes only the sale and compounding of medicines according to prescriptions of physicians. See APOTHECARIES, *supra*. TOBACCONISTS, *infra*.

## 2. WHOLESALE AND RETAIL DEALERS DISTINGUISHED.

Wholesale dealers were distinguished from retail dealers, under the statute before amended, by the *manner of making sales*, without regard to the amount of business done. Thus, a wholesale dealer was one who sold "in original packages," while a retail dealer was one who sold in parcels and to consumers.

This awkward distinction is now abrogated by the amendments, and the rule is, that a dealer whose annual sales exceed \$25,000, is a wholesale dealer; under that amount, he is a retail dealer.

The decisions of the commissioner on the distinction between wholesale and retail dealers, under the act before amendment, are, therefore, inapplicable, and are omitted.

A person or firm licensed as a wholesale or retail dealer, may sell anything, excepting liquors, upon the same premises. (Com'r Boutw., *N. Y. Trans.*, Oct. 31, '62.)

## 3. DEALERS DISTINGUISHED FROM PEDDLERS.

A peddler is one who sells while traveling from place to place; a dealer must have a fixed place of business.

But dealers may deliver articles by means of wagons without a peddler's license.

Thus, *dealers in ice*, who supply season customers from carts or wagons, collecting their bills monthly, or at the end of the season, do not require a peddler's license for the drivers of such carts. They must take out a dealer's license.

So, *bakers' and butchers' carts*, milk and grocery wagons, running merely to deliver what was previously sold or contracted for, are liable to a license as dealers and not as peddlers. They do not travel from place to place for the *purpose* of selling, though occasional sales may be made by the drivers. (Com'r Boutw., Decis. No. 23.)

See PEDDLERS, *infra*.

## 4. DEALERS AND MANUFACTURERS DISTINGUISHED.

A dealer is one who *sells* exclusively; a manufacturer is one who *makes and sells* his products.

Thus, a manufacturer may sell his own products on the premises where manufactured without a dealer's license. If he sells his own products, together with articles not of his own make, if his sales of the latter are so much that he greatly depends upon them, he must be deemed a dealer. So a dealer, if he sells articles of his own manufacture, amounting to \$1,000 a year, together with other goods, must take out a manufacturer's license.

Certain articles being declared, by the last clause of section 75, not dutiable as manufactures, the commissioner has intimated that the producers of them are to be regarded as dealers, and require a license as such. Whether wholesale or retail, must depend upon the facts of each case.

The following list embraces the excepted articles:

Alcohol, manufacturers of.	Bricks, draining tiles and build-
Boards, "	ing stone, manufacturers of.
Books, newspapers, magazines,	Bullion, to be used in making sil-
pamphlets, &c., printers and	verware, manufacturers of.
publishers of.	Burning fluid, "
Bread and breadstuffs, manufac-	Butter, "
turers of.	Charcoal, "

Cheese, manufacturers of.	Lumber, manufacturers of. (See LUMBER.)
Coal (pea and dust), manufrs of.	Malt, manufacturers of.
Coal tar, and its products, manufacturers of.	Maps and charts, manufacturers of.
Concentrated milk, manufrs of.	Marble and slate, “
Coopers' stuff, “	Pearl barley and split peas, manufacturers of.
Copper, in ingots, “	Plaster, manufacturers of.
Flax (prepared), “	Printers' ink, “
Fish oil, “	Red oil, “
Flour and meal made from grain, manufacturers of.	Roman cement, “
Gypsum, “	Shingles, “
Iron (pig, slab, bloom or loop), manufacturers of.	Timber, for chair stuff, pails, spade and shovel handles, snaths, &c., manufacturers of. (See TIMBER.)
Lead (bar and pig), manufacturers of.	Umbrella stretchers, manufrs of.
Lime, manufacturers of.	

Consult the title, EXEMPTIONS FROM DUTY, *infra*.

This statement is based upon the answer of Commissioner Boutwell to inquiries made by one of the Massachusetts assessors, as follows :

“ Bakeries, brick-kilns, saw and grist mills, printing establishments, lime-kilns and other establishments in which are made and produced bread, bricks, boards or other lumber, flour and meal, books, lime, printers' ink, maps, and other articles [excepted from taxation by last clause of § 75 ?] are *classed under the head of Dealer*, and, as such, require license.”

These form an exception, therefore, to the general rule, that the producer of an article does not require a dealer's license for its sale on the premises where made. A miller selling flour from his mill, a publisher books at his own printing-house, require dealers' licenses. But it should be carefully observed that these several producers, if they manufacture *other* articles than those excepted as above, are, as to them, deemed manufacturers.

Thus, the commissioner has decided that a person who works marble into monuments and other articles is a *manufacturer*. (Com'r Boutw., *N. Y. Trans.*, Oct. 31, '62.)

So, job printers, lithographers and the like are manufacturers, if they produce articles having a general sale in the trade. (Com'r Boutw., *N. Y. Trib.*, Oct. 29, '62.)

See MANUFACTURERS, *infra*.

##### 5. WHO REQUIRE DEALER'S LICENSE.

*Commercial broker*.—A dealer is distinguished from a



commercial broker in that the latter buys and sells for another, while the former acts for himself.

A wholesale dealer's license does not permit one to act as a commercial broker without additional license.

Persons buying produce, butter, eggs, &c., and forwarding the same to wholesale or commission merchants, to be sold by them, are not subject to a license tax in consequence of such buying; *provided* they buy for themselves. But if they buy for others, they are liable to the license, as commercial brokers. (Com'r Boutw., Decis. No. 33.)

*Contractor.*—The furnishing of the materials for a house, by the person who has the contract for the building of the same, does not constitute him a dealer. (Com'r Boutw., *N. Y. Trans.*, Nov. 15, '62.)

*Lumber.*—The commissioner has decided that assessors may assess, as dealers, persons who sell logs and lumber in rafts; and the assessors will report to the collectors accordingly, and the license will be prepared in conformity with such return. Applications for license should be made, and the licenses issued, in the collection district where the licensee resides.

A *manufacturer* who sells his wares at any place except upon the premises where manufactured, must take a license as a dealer.

He can sell under his license at his manufactory only. He must take out a separate dealer's license for each shop, office or store where anything is sold or offered for sale, off the premises of the manufactory. (Com'r Boutw., *N. Y. Trans.*, Nov. 17, '62.)

*Marble.*—A person who sells marble in the rough, or the manufactured article, to them who sell again, is required to take out a wholesale dealer's license.

So a person who retails the article—*e. g.*, in slabs, to monument-makers—must take out a retail dealer's license. (Com'r Boutw., *N. Y. Trans.*, Oct. 30, '62.)

See STONE CUTTERS, *infra*.

*Marketmen.*—Generally, the business of one who keeps a stall in the market is that of a retail dealer. There are exceptions, however, and the assessors must judge in each case. (Com'r Boutw., Decis. No. 11.)

*Mechanics.*—Commissioner Boutwell decides that mechanics, such as painters, carpenters, plumbers, &c., who

charge a profit on the amount of material they use in work, in the regular course of their trades, are liable to license as retail dealers whenever their annual sales exceed \$1,000.

*Milkmen*.—A person can sell, without license, the milk of his own cows; but a dealer's license is required for the selling of milk which has been purchased. (Com'r Boutw., *N. Y. Trans.*, Oct. 30, '62.)

*Millers* must take out licenses as dealers. (Com'r Boutw., *N. Y. Trans.*, Oct. 31, '62.)

*Nurserymen* are required to take out licenses, as wholesale or retail dealers, as the case may be; and tree dealers, who buy to sell again, if they peddle their trees, must take out licenses as peddlers, and also as dealers, if they have places of business. (Com'r Boutw., Decis. No. 33.)

*Producers* whose products are enumerated as dutiable in section 75, are not required to take out a license as dealers for the sale of such products upon the premises where produced. (Com'r Boutw., Decis. No. 58.)

*Publishers* of printed books, magazines, pamphlets, newspapers, reviews, and all other similar publications, are liable to assessment as dealers. (Com'r Boutw., Decis. No. 41.)

*Selling from vessels*.—Persons selling or peddling from boats or vessels must take out a license as dealers, either as wholesale or retail, as the case may be. The license must state that the party is authorized to sell from such boat or vessel. A separate license is required for each boat. (Com'r Boutw., *N. Y. Times*, Nov. 20, '62; *N. Y. Trans.*, Dec. 5, '62.)

The name of the particular trade or business liable to a dealer's license should be consulted, under its proper head, for further examples.

#### DEER SKINS.

[Duty, two cents per pound.]

On all deer skins, dressed or smoked, the duty is two cents per pound; to be paid monthly. (§ 75.)

See *LEATHER, infra*.

*Manufactures of*.—It is specially provided that the duty on dressed or smoked deer skins, manufactured into gloves, mittens or other articles—a duty having already been paid on the skins—shall be three per cent on the *increased* valuation; not ad valorem. (§ 75.)

**DENTISTS.**

[License fee, \$10.]

Dentists pay \$10 for a license.

The dentists', physicians', and surgeons' licenses are identical, and a person may practice as a dentist, physician or surgeon under the same license. This, we are informed, is the regulation of the revenue bureau.

**DIAMONDS.**See JEWELRY; MANUFACTURES, *infra*.**DIES AND DIE SINKERS.**See ENGRAVERS, *infra*.**DISTILLED SPIRITS.**

[Duty, twenty cents per gallon.]

- ARTICLE 1.** The duty.  
 2. Distiller's records and monthly abstract.  
 3. Inspection of spirits.  
 4. Removal of spirits from distillery.  
 5. Warehousing spirits.  
 6. Payment of the duty.  
 7. Penalties.

**1. THE DUTY.**

The duty on distilled spirits is 20 cents for every gallon distilled, whether equal to first proof or not, with a proportionate increase of duty on spirits above proof. (§ 41.)

Spirituous and malt liquors and manufactured tobacco are not included in the limitation of section 73, exempting from taxation all manufactures where the annual product does not exceed \$600.

By the amendatory act of March 3, 1863 (§ 12, p. 242), distilled spirits manufactured prior to September 1, 1862, are exempt, whether removed for sale or consumption, or not.

*Sweet spirits of nitre* are held not to be "spirits," within the meaning of the English excise acts. The term "spirits," in those acts, signifies an inflammable liquid produced by distillation, either pure, or mixed only with ingredients which do not convert it into some article of commerce not known in common parlance under the general appellation of "spirits." (*Attorney-general v. Bailey*, 1 *Ex.* 281.)

The same may, doubtless, be said of our statute.

## 2. DISTILLER'S RECORDS AND MONTHLY ABSTRACT.

In general, a distiller is required to perform the conditions of his bond given on his application for a license.

See DISTILLERS OF SPIRITS, *infra*.

He is required, either by himself or his agent—

1. To keep, from day to day, a record of the number of gallons distilled, and the proof thereof.
2. The number of gallons sold, or removed for sale or consumption, and the proof thereof.
3. To keep, from day to day, a record of the quantity of grain or other substance used in producing spirits.
4. To render to the collector, on the first, tenth, and twentieth days of each month, or within five days thereafter, a general account, taken from his books, and duly verified, of the number of gallons distilled and sold, or removed for consumption or sale, with the proof thereof, for the preceding ten days.

5. To pay the duties at the time of rendering his general tri-monthly account. (§ 45.)

The form of the book of record is furnished by the commissioner (No. 13). It is to be kept under direction of the collector, but open to the examination of the assessor and assistants. The distiller must each day make the entries required by law (if not running, note the fact under head, *Remarks*). And the assessor or assistant must visit each distillery once in every thirty days, at least.

*Entries to be verified.*—The entries made in the distillers' books are to be verified by the person making them before the collector, or some officer authorized by the laws of the State, on the first, tenth, and twentieth days of every month, in substance as follows :

"I do swear (or affirm) that the foregoing entries were made by me on the respective days specified, and that they state, according to the best of my knowledge and belief, the whole quantity of spirituous liquors distilled and sold, or removed for consumption or sale, at the distillery owned by ———, in the county of ———, amounting to ——— gallons, according to proof prescribed by the laws of the United States." (§ 48.)

Where the original entries in the books were made by a

person other than the owner or superintendent of the still, such owner or superintendent must subjoin to the above the following affidavit :

"I do swear (or affirm) that, to the best of my knowledge and belief, the foregoing entries are just and true, and that I have taken all the means in my power to make them so."  
(§ 49.)

Besides the daily records and tri-monthly accounts, a

#### MONTHLY ABSTRACT

is to be furnished, on request, to the assessor or assistant assessor of the district in which the business is carried on, giving an abstract of the entries in his books of the amount of spirits distilled and sold, or removed for consumption or sale, during the preceding month. The abstract must be verified by the oath of the party ; but the assessor or assistant assessor has the right to examine the records, to ascertain its correctness.

*The penalty* for neglect to furnish such monthly abstract, or for refusing to furnish an examination of the records, is \$500. (§ 56.)

### 3. INSPECTION OF SPIRITS.

*An inspector of spirits* may be appointed by the collector in every assessment district, where it may be necessary. His duty is to inspect, gauge, and prove all spirits before they are used or removed for sale. He is to mark, upon the cask or other package, the quantity and proof of the contents, with the date of the inspection, and his own name. (§ 43.)

*Standards of proof and values.*—The term "first proof," used in the act, means that proof of a liquor which corresponds to fifty degrees of Tralles's centesimal hydrometer, adopted by regulation of the treasury department, of August 12, 1850, at the temperature of sixty degrees of Fahrenheit's thermometer. In reducing the temperatures to the standard of sixty, and in levying duties on liquors above and below proof, the table of commercial values contained in Professor McCulloh's Manual for Inspectors of Spirits, adopted by the treasury department, is taken as giving the proportions of absolute alcohol in the liquors gauged and proved. (§ 42.)

*Penalty for an inspector's knowingly putting a false mark upon a cask is \$500 for every cask so marked.*

*For fraudulently using a marked cask, for the purpose of selling spirits of a different quality, or quantity, from that indicated by the mark, the penalty is \$500 for each offence.*

*For changing inspector's mark on a cask or package, in any manner, the penalty is \$500 for each offence.*

*The inspector's fees are to be paid by the owner of the spirits inspected. (§ 43.)*

#### 4. REMOVAL OF SPIRITS FROM DISTILLERY.

Inspected spirits, in quantities over fifty barrels, may be shipped out of the district (but within the United States), without first paying the duty, in the following manner:

1. A bill of lading must be taken, in the name of the collector of the district where the distillery is situated. In it, the spirits must be consigned to the collector of the district where it is to be sent. The name of the person to receive the consignment must appear in the bill of lading, and also the amount of the duties due on the spirits.

2. On arrival of the spirits at the place of destination, the agent of the consignor—i. e., owner of the spirits—before taking the spirits, must pay the duties due, together with the freight, and every other expense which has accrued thereon. Failing to do so, the spirits are to be stored, at the cost and risk of the owner. When so stored, ten per cent additional duty is required. (§ 46.)

*Removal for exportation.*—Distilled spirits, where the duties thereon exceed \$300, and where the owner has not failed in performing any obligation previously given the United States, may be removed from the place of manufacture, for the purpose of being exported, or being redistilled for exportation, without payment of the duty previous to removal, in the following manner:

1. The quantity of spirits sought to be removed must first have been ascertained by the inspector.

2. The written permission of the collector or deputy collector must have been obtained, authorizing the removal.

3. On application for such permit, the owner must make oath, before the collector or deputy collector, that he intends to export the spirits, and that he desires to obtain the permit for no other purpose whatever.

4. The owner must then give a bond to the United States, with sufficient sureties, in at least double the amount of the duty, conditioned that he will export the spirits or pay the duty within the time specified in the bond. (§ 47.)

The commissioner has issued the following regulations:

Distilled spirits may be removed from the place of manufacture for the purpose of being exported or redistilled for export, and refined coal oil may be removed for the purpose of being exported, after the quantity of oil or spirits so removed shall have been ascertained by inspection, according to the provisions of the excise law, upon and with the written permission of the collector (see Blank No. 31) of the district, without payment of a tax thereon previous to such removal; the owner thereof having first given bonds (Form No. 32) to the United States, with sufficient sureties, in at least double the amount of the said duty, to export the said spirits or oil, or pay the duties thereon, within a period not exceeding ninety days from the said bond. This bond must be given by the owner of the spirits or oil, whether distilled or otherwise, and must be executed to the satisfaction of the collector, before the spirits or oil is removed from the premises where distilled or manufactured. When a bond for export has been given and a permit granted, the spirits or oil may be exported from the specified port without the intervention of the collector, under the excise law, at such port. (Decis. No. 16.)

The bond is canceled on the payment of the duties with interest, and all proper charges, if the liquor has not been exported, or upon proof that it has been duly exported. (§ 47.)

On breach of the obligations of the bond, it is forwarded by the collector to the commissioner, who gives it to the first controller of the treasury, who proceeds thereon in the same manner as in the case of delinquent collectors. (§ 47.)

See COLLECTORS, Book I.

#### 5. WAREHOUSING SPIRITS.

The owner of a distillery may erect an iron, stone, or brick warehouse, with fire-proof roofing, contiguous to his distillery, for the storing of distilled spirits. Under the act of March 3, 1863, the warehouse need not be "contiguous."

Such warehouse, when approved by the collector of the district, is declared a bonded warehouse of the United States. It is under the custody of the collector or his deputy. Spirits

may be removed to this warehouse, and no duty need be paid until the spirits are sold, or removed from the warehouse for sale. (§ 44.)

#### 6. PAYMENT OF THE DUTY.

The duty is to be paid on the first, tenth, and twentieth of each month, or within five days thereafter. The penalty is stated below.

The duty is due when the spirits are *sold*, notwithstanding they may have been manufactured before the law went into effect—September 1, 1862. (Com'r Boutw., *N. Y. Trans.*, Oct. 27, '62.) This is now changed, and spirits manufactured before September 1, 1862, are exempt.

All receipts to distillers and brewers are to be taken from a receipt book furnished by the bureau (Form No. 16), carefully numbered and noted in the margin, which is to be returned to the commissioner of internal revenue.

#### 7. PENALTIES.

For a neglect to make the entries, &c., "or to do or cause to be done any of the things by this act required to be done," the distiller must forfeit, for every such neglect, all the spirits made by him, and all the vessels used in making the same, and the stills, boilers, and other vessels used in distillation, together with the sum of \$500, to be recovered with costs of suit. (§ 54.)

The same provisions apply to brewers.

In such case, the liquor, stills, boilers, vessels, &c., may be seized and held by the collector, until a decision may be had according to law.

The seizures must be made, however, within thirty days after the occurrence of the neglect, and the proceedings to enforce the forfeiture must be commenced by the collector within twenty days after the seizure. These proceedings to enforce the forfeiture of property must be in the nature of a proceeding *in rem*, in the United States circuit or district court for the district where the seizure is made, or in any other court of competent jurisdiction. (§ 54)

The penalty for neglect to pay the duty as required at the time of rendering the tri-monthly accounts, is an addition of ten per cent on the amount due; and, until paid, the duties remain a lien upon the distillery and the implements belonging thereto; and in case of neglect to pay them within ten



days after they become due, the amount may be recovered by distraint and sale of the personal property of the delinquant. (§ 55.)

For the proceedings on distraint and sale, see *BEER, supra*, to which this section equally applies.

### DISTILLERS OF SPIRITS.

[License fee, \$25 to \$50.]

A distiller manufacturing less than three hundred barrels per year is required to pay \$25 for license; manufacturing over that, \$50.

*Defined.*—Every person distilling or manufacturing spirituous liquors for sale is deemed a distiller.

No license is required of druggists and chemists for any stills or other apparatus used for the recovery of alcohol, for pharmaceutical and chemical purposes, which have been used in those processes. (§ 64, subd. 9.)

Any person who is a resident of the United States is entitled to a distiller's license.

*The application* for a license by a distiller must be in writing, and must state, 1, the place of distilling; 2, the number and capacity of the stills or boilers; 3, the name of the person or company using the same. (§ 40.)

*A penalty* of \$100 is imposed for making a false statement in any of these particulars. (§ 40.)

*Bond to be given.*—Before a license can be granted on such application, the applicant is required to give a bond to the United States, in such sum as shall be required by the collector, and with one or more sureties, to be approved by the collector, conditioned "that in case any additional still or stills, or other implements to be used as aforesaid, shall be erected by him, his agent or superintendent, he will, before using, or causing or permitting the same to be used, report in writing, to the collector, the capacity thereof, and information from time to time of any change in the form, capacity, ownership, agency, or superintendence, which all or either of the said stills or other implements may undergo; and that he will, from day to day, enter or cause to be entered, in a book to be kept for that purpose, the number of gallons of spirits that may be distilled by said still or stills, or other implements, and also of the quantities of grain or other vegetable productions, or other substances put into the mash-tub or otherwise used by him,

his agent, or superintendent, for the purpose of producing spirits, which said book shall be open at all times, during the day (Sundays excepted), to the inspection of the collector, who may make any memorandums or transcripts therefrom; and that he will render to the said collector, on the first, tenth and twentieth days of each and every month, or within five days thereafter, during the continuance of said license, an exact account, in writing, taken from his books, of the number of gallons of spirits distilled and sold, or removed for consumption or sale, by him, his agent or superintendent, and the proof thereof, and also of the quantities of grain or other vegetable productions, or other substances, put into the mash-tub, or otherwise used by him, his agent, or superintendent, for the purpose of producing spirits, for the period or fractional part of a month then next preceding the date of said report, which said report shall be verified by affidavit in the manner prescribed by this act; and that he will not sell, or permit to be sold or removed for consumption or sale, any spirits distilled by him under and by virtue of his said license, until the same shall have been inspected, gauged, and proved, and the quantity thereof duly entered upon his books as aforesaid; and that he will, at the time of rendering said account, pay to the said collector the duties which by this act are imposed on the spirits so distilled." This bond may be renewed or changed from time to time, in respect to the amount and sureties, in the discretion of the collector. (§ 39.)

*Requisites of license.*—On furnishing such bond, a license is granted by the collector. The license must contain the date thereof, the sum paid, and the time when the same will expire. (§ 39.)

For the provisions respecting the duties of distillers as to entries, returns, payment of the tax, &c., see DISTILLED SPIRITS, *supra*. See, also, LICENSES IN GENERAL, *infra*.

#### **DISTILLERS OF APPLES AND PEACHES.**

[License fee, \$12.50 to \$50.]

Distillers of apples and peaches, distilling less than one hundred and fifty barrels per year, pay \$12.50 license fee; but distilling over that quantity, they pay the same as required of other distillers. (§ 64, subd. 9.)

#### **DISTILLERS OF COAL OIL.**

See COAL-OIL DISTILLERS, *supra*.

**DIVIDENDS (Banks and Trust Companies).**

[Duty, three per cent on amount.]

**1. THE DUTY.**

All dividends, in scrip or money, declared by banks, trust companies, and savings institutions to be due to stockholders, policyholders or depositors, as a part of the earnings of the company, are subject to a duty of three per cent.

The same duty is payable on all sums added to their surplus or contingent funds. (§ 82.)

This duty the bank is authorized to withhold from payments on account of such dividends or sums of money. (§ 82.)

The bank or company cannot pay their dividends in full to stockholders, and themselves assume the payment of the duty to the revenue.

The amount to be paid to stockholders is ninety-seven one-hundredths of the sum upon which the three per cent must be estimated. (Com'r Boutw., *N. Y. Trans.*, Dec. 22, '62.)

The duty must be paid on all dividends declared due and payable after September 1, 1862. The same tax must also be paid on all sums added to surplus or contingent funds, and withheld and paid to the revenue.

Commissioner Boutwell remarks: "I am not aware of any provision of the law by which proceeds of investments in railroad or bank stocks are exempt from taxation when divided among stockholders."

*Profits.*—Banks failing to declare dividends pay a duty on their profits, under the amendatory act of March 3, 1863.

See *BANKS, supra*.

**2. PAYMENT OF THE DUTY.**

The duties withheld by the bank or company must be paid over to the revenue, and returns made at least every six months.

*Returns* must be rendered to the commissioner of internal revenue within thirty days after the dividends become due, and at least every six\* months, of the amount of duties due the revenue, to be verified by the president or some other proper officer of the bank. (§ 82.)

\* This is the reading of the statute. Commissioner Boutwell, in Regulation No. 65, orders the returns to be made *quarterly*.

The first return will be upon such payments of dividends, &c., as are due and payable from September 2 to September 30, 1862, both days inclusive. (Com'r Boutw., Decis. No. 65.)

The amount of the tax should be deposited with the nearest United States assistant treasurer or designated depository, and his original certificate therefor sent, with the return, to the commissioner. But if more convenient, payment may be made by draft or treasury note. (Com'r Boutw., Decis. No. 65.)

A penalty of \$500 is imposed for default in the delivery of such return, and an additional penalty of \$500 for default in payment of the duty. If the return is not made or the duty paid within thirty days after the time required, the collector may begin suit. (§§ 82, 83.)

#### **DIVIDENDS (Canal and Turnpike Companies).**

[Duty, three per cent on amount.]

Under the amendatory act of March 3, 1863 (§ 8), canal companies, slack-water corporations and turnpike companies are subject to same duties, on dividends declared by them, as banks, insurance companies and railroads. The duties of the company in respect to returns, the penalties, &c., are the same as those marked out in the preceding title.

#### **DIVIDENDS (Insurance Companies).**

[Duty, three per cent on amount.]

The provisions relating to banks, trust companies, &c., apply to insurance companies, whether fire, marine, life, inland, stock or mutual companies.

But the duties on dividends of *life insurance* companies are not to be deemed due or to be collected until the dividends are payable by the company.

The commissioner decides that dividends paid by a mutual insurance company to the insured, upon expiring or expired policies, are subject to the three per cent duty. (Com'r Boutw., Decis. No. 29.)

Besides the regular divisions of profits to stockholders, all premiums or deposits returned must be considered as dividends to policyholders, from which three per cent will be withheld. (*Id.*, Decis. No. 65.)

The provisions respecting the withholding of the duty,

rendering semi-annual statements, and the penalties for neglect, are the same as in the case of dividends of banks, above.

Concerning duty on receipts for *premiums*, and the obligations of insurance companies therein, see **INSURANCE COMPANIES, *infra***.

### **DIVIDENDS (Railroad).**

[Duty, three per cent on amount.]

#### **1. THE DUTY.**

All dividends, in scrip or money, declared due to stockholders of railroad companies, as part of the earnings of the company, are subject to a duty of three per cent on the amount thereof. The company may deduct this duty from payments on account of the dividend; and such deduction, certified by the president or other proper officer, is a receipt and discharge of the company to that amount. (§ 81.)

#### **2. PAYMENT OF THE DUTY.**

Within thirty days after the time fixed for the payment of any interest on bonds or coupons, or for paying dividends, and as often as every *six months*,\* the company must render a return to the commissioner, at Washington, containing an account of the duties received and chargeable on the interest, &c., or upon the dividends, during the time such duties have or should accrue. The return must be sworn to, by the president, treasurer, or other proper officer, that the same contains a true and faithful account of the duties withheld by the company on their payments to stockholders, and received, or not accounted for, during the time they have or should accrue. For default in rendering such verified return, the company is liable to a penalty of \$500, besides fifty per cent additional on the amount of the duties. (§§ 81, 83.)

### **DRAINING TILES.**

Draining tiles are not a manufacture, subject to duty as such. (§ 75.)

See **DEALER, *supra***.

\* By the regulations of the revenue bureau, the duty is payable *quarterly*.

**DRAWBACK AND ALLOWANCE.**

See Book I., chapter iv.

**DRESS-MAKERS.**

Dress-making is a manufacture, and as such, if carried on to an extent exceeding \$1,000 per year, including price of goods, is subject to a manufacturer's license.

A dress-maker, therefore, is required to make monthly returns, and pay a tax of three per cent on the whole value of her manufactures. But by the amendatory act of March 3, 1863 (p. 262, *infra*), dress-makers, milliners, tailors, &c., making clothing or articles of dress for men's, women's, or children's wear, to order as custom work, and not for sale generally, are exempt from duty to the amount of \$1,000; and for any excess over that amount, they pay a duty of but one per cent, ad valorem.

Monthly returns are to be rendered, and the duty paid; but the dress-maker is authorized to add the tax to her bill for labor, and has a lien upon the dress until the bill is paid. (Com'r Boutw., *N. Y. Trans.*, Dec. 3, '62.) See Appendix, Decision No. 83, page 308, *infra*.

**DROVERS.**

See CATTLE BROKERS, *supra*.

**DYERS.**

See PRINTING, *infra*.

**EATING-HOUSES.**

[License fee, \$10.]

Eating-houses, whose business receipts exceed \$1,000 a year, are subject to \$10 for each license.

*Defined.*—Every place where food or refreshments of any kind are provided for casual visitors and sold for consumption therein, is regarded as an eating-house.

But the keeper of any eating-house, having taken out a license therefor, is not required to take out a license as a confectioner. (§ 64, subd. 12.)

A bar, at which liquors are sold, in connection with an eating-house, requires a retail liquor-dealer's license.

Eating-houses furnishing lodging require a tavern license. By the late amendments, eating-houses are not required to take a tobacconist's license to sell tobacco.

**EMERALDS.**

See JEWELRY, *infra*.

**ENGRAVERS AND LITHOGRAPHERS.**

The commissioner decides that articles produced by job printers, lithographers, and engravers, which are made upon specified orders, not known as articles of commerce, are exempt from duty as manufactures. And job printers, engravers, and lithographers, whose business is *confined* to the production of articles covered by the foregoing rule of exception, are not liable to assessment as manufacturers. (Com'r Boutw., Decis. No. 42.) Under a previous decision they are dealers.

See DEALERS, *supra*.

But engravers and lithographers who engrave and print designs, pictures, &c., for sale to the public at large, are clearly manufacturers, and require a license as such. So, a die sinker or engraver, who makes and sells general seals, stamps, or dies, which have a separate commercial value of their own, must take out a license as manufacturer, and pay the three per cent tax. But where he cuts names or designs upon seals, stamps or dies brought him by others, he manufactures nothing, but only performs labor. And the commissioner decides that, even where he finds the seal, stamp, or die, as well, but cuts it for a specific purpose, so that it would be of no special value to any one but the owner, he is not the manufacturer. (Com'r Boutw., Decis. No. 51.)

But, as to this, see DEALERS, *supra*, and MANUFACTURERS, *infra*.

**EXECUTORS.**

See LICENSES IN GENERAL; LEGACY DUTY, *infra*; and THE INCOME TAX, Book III., *post*.

**EXEMPTIONS FROM DUTY.**

The following articles and manufactures are exempted from taxation under the act:

All articles manufactured by any person for his own use or consumption, and *not* for sale.

All articles, though made for sale (except spirituous and malt liquors and manufactured tobacco), where the annual product does not exceed \$600. (§ 73.)

(For construction of the proviso contained in this section, see MANUFACTURES IN GENERAL, article i.)

Manufactures composed of articles upon which separate duties have already been paid, or which are exempt, where the increased value of the new manufacture is less than five per cent, ad valorem, are exempt. (*Act of March 3, '63, § 29, p. 263.*)

Knitting-thread and yarn, made and delivered exclusively for knitted fabrics, or for wearing, where the spinning and weaving are carried on separately, are exempt (§ 75). The duty is to be assessed on the finished cloth or other article.

Oil-dressed leather and deer skins manufactured into gloves, and cloths manufactured into other articles, are assessed only for their *increased value*.

See CLOTH ; LEATHER.

It is specially provided that bars, rods, bands, hoops, sheets, plates, nails, and spikes, manufactured from iron upon which the duty of \$1.50 per ton has been paid, shall be subject only to a duty of fifty cents per ton in addition. Bar iron used for stoves and hollowware, or for bridges, buildings, or other permanent structures, is chargeable with no additional duty beyond the specific duty of \$1.50 per ton. (§ 75.)

Cotton on hand and owned by a manufacturer of cotton fabrics on the 1st day of October, 1862, and prior thereto, is exempt (§ 75). Cotton or woollen fabrics, fermented and distilled liquors, and refined coal oil, proved to have been manufactured prior to September 1, 1863, whether removed for consumption or sale, or not, are exempt from duty. (*Act of March 3, '63, § 12, p. 242, infra.*)

Plate owned by churches and kept for communion service, is exempt under the act of March 3, 1863.

The following articles are exempt from all taxation :

Alcohol (duty on the materials having been paid), boards, books, bread and bread stuffs, bricks, building stone, bullion used in manufacture of silverware, burning fluid, butter, calves and cattle slaughtered for use, castings, chair stuff (timber), charcoal, coal (pea and dust), coal tar and its products, coke, concentrated milk, cooper stuff (timber), copper



in ingots, draining tiles, felloes, flax prepared for textile or felting purposes, until actually woven or felted into fabrics for consumption, fish oil, all flour and meal made from grain, fork handles, grindstones, gypsum, hogs under twenty, hoops, headings, hubs, iron (pig, slab, bloom or loop), lasts (wooden stuff for), lead (bar and pig), lime, lumber, magazines (printed), malt, maps and charts, marble, newspapers (printed), pails (timber for), pamphlets (printed), pearl barley, peas (split), plaster, printers' ink, printed publications (all other), red oil, reviews (printed), Roman cement, sheep slaughtered for use, shingles, spade and shovel handles, slate, snaths (timber for), spindles, spokes, staves, timber, tubs (timber for), umbrella stretchers.

#### EXHIBITIONS.

[License fee, \$10.]

The exhibitions specifically licensed are theatres, circuses, and juggler shows.

Besides these, it is provided that *all other* public exhibitions or shows for money are each liable to a license fee of \$10. (§ 64, subd. 19.)

This license holds good throughout one State only.

#### EXPRESS COMPANIES.

[Duty, two per cent on gross receipts.]

By the amendatory act of March 3, 1863 (§ 10, p. 270), it is provided that, from the first day of April, 1863, any person or persons, firms, companies, or corporations carrying on or doing an express business shall, in lieu of the tax and stamp duties imposed by existing laws, be subject to a duty of two per cent on the gross amount of all the receipts of such express business, and be subject to the same provisions, rules, and penalties as are prescribed in section 80 of the excise act for the management of railroads, steamboats, and ferry boats.

#### FABRICS.

See CLOTH, *supra*, and MANUFACTURES IN GENERAL, *infra*.

## FERRY BOATS.

[Duty, one and a half per cent on gross receipts.]

## 1. THE DUTY.

A duty of one and a half per cent is laid upon the gross receipts of ferry boats, whether propelled by steam or horse power. (§ 80; *act of March 3, '63*, § 9, p. 270, *infra*.)

Rope ferries do not seem to be included.

The duties imposed may be added, by the owner or company, to the rates of fare, any limitation existing by law, or by agreement with any person or company which may have paid, or be liable to pay, such fare, to the contrary notwithstanding. (§ 80.)

## 2. PAYMENT OF THE DUTY.

The duty is to be paid monthly, at the time of rendering the return required.

The provisions relating to ferry boats are the same as those governing the duty upon fares of railroads and steamboats, requiring monthly returns, &c., with the same penalties for non-compliance.

*Returns* are to be made, within five days of the end of each month, to the assistant assessor of the district where the owner's or company's principal office is situated, stating the gross amount of the receipts for the transportation of passengers for the month next preceding. The return is to be verified by the owner, agent, or a proper officer of the company. (§ 80.)

## 3. PENALTIES.

In case of refusal or neglect to make the return within five days after the same is due, the assessor or assistant assessor must proceed to estimate the amount received, and the duties payable thereon; and, in making such assessment, the books of the owner or company are subject to the inspection of the officer, on his demand.

For neglect or refusal to pay the duties within five days after they become due, an addition of five per cent on the amount of the duties is assessed; and for any attempt to evade, knowingly, the payment of the duties, the penalty is \$1,000. (§ 80.)

The provisions of the act in relation to liens and collec-

tions by distraint, not incompatible, are declared to apply to this section. (§ 80.)

#### FISH OIL.

| | Fish oil is exempt from duty as a separate manufacture.

See OILS, *infra*.

#### FISH (Preserved).

See PRESERVES, *infra*.

#### FLAX.

Flax, prepared for textile or felting purposes, is included among the articles enumerated by the last clause of section 75 as exempt from taxation.

See FABRICS; CLOTH; DEALERS, *supra*. MANUFACTURERS, *infra*.

#### FLOUR AND MEAL.

Flour and meal are exempt from duty (§ 75). Millers are liable to license as dealers.

#### FRAMES.

Looking-glass and picture frames are manufactures, and subject to tax as such.

But the placing of the mirror or picture in the frame does not constitute a new manufacture, nor render the article liable to additional taxation. (Com'r Boutw., *N. Y. Trans.*, Dec. 18, '62.)

#### FRUITS (Preserved).

See PRESERVES, *infra*.

#### FURNITURE.

Furniture is a manufacture, and liable to taxation as such. The addition of marble slabs to tables or other furniture is not construed as the production of a new manufacture, provided that the taxes on the materials have been previously paid. (Com'r Boutw., Decis. No. 55.) Nor is furniture, when fin-

ished and the tax paid, subject to additional taxation for oiling, waxing, painting, or varnishing. (*Ib.*) So, it would seem, the addition of a mirror to a dressing bureau is not a new manufacture.

A manufacturer of furniture requires a manufacturer's license. This authorizes him to sell at his factory. If he desires to sell at another place, he must take out a dealer's license.

See DEALERS, *supra*, and MANUFACTURERS, *infra*.

For exemptions of timber from taxation, see EXEMPTIONS, *supra*.

### FURS.

[Duty, three per cent, ad valorem.]

The duty on furs of all descriptions, when made up or manufactured, is three per centum, ad valorem. (§ 75.)

### GAS.

[Duty, from five to fifteen cents per thousand cubic feet.]

#### 1. THE DUTY.

The following is the rate of taxation on illuminating gas, made wholly or in part of coal or of any other material :

On product of 500,000 or less cubic feet per month,	
per 1,000 cubic feet.....	5 cents.
On product above 500,000, and 5,000,000 or less	
cubic feet per month, per 1,000 feet.....	10 "
On product above 5,000,000, per 1,000 feet.....	15 "

The company is authorized to add the amount of the duty to the price per thousand cubic feet sold.

Gas is an exception to the general rule, that all manufactures for the maker's own use and consumption are exempt. Thus, gas made for, and used by, any hotel, inn, tavern and private dwelling-house is subject to duty, and, if not measured, may be estimated. The same is true of gas furnished for lighting street lamps and not measured (§ 75). This provision may doubtless be extended to any manufacturer of gas for his own use.

*Coal tar.*—It is specially provided that coal tar produced in the manufacture of gas, and the products of the distillation of such tar, are exempt from duty. (§ 75.)

See COAL OIL, *supra*.

*Coke* is exempted from duty by the amendatory act of March 3, 1863.

*Two or more companies.*—Where two or more gas companies are situated so as to compete with each other, they must both pay alike—that is, both must pay the rate imposed upon the company having the largest production. (§ 75.)

## 2. PAYMENT OF THE DUTY.

The tax is payable monthly. Returns are also to be made monthly, as of a manufacture. For other requirements as to returns and payment of duties, see MANUFACTURES IN GENERAL, *infra*.

The duties began to accrue on September 1, 1862, and, in regulating the rate of duty for the first month, the general average of the monthly product for the year preceding the return was taken. Where the company, however, has not been in operation for the whole year next preceding the return, the rate is to be regulated upon the estimated average of the monthly product.

The "product" required to be returned by gas companies, is the product charged in the bills actually rendered by the company during the month preceding the return.

## GAS FIXTURES.

Gas fixtures are manufactures, and, as such, dutiable at three per cent, ad valorem. Manufacturers of chandeliers, gas fixtures, &c., must pay the tax upon the actual value of their goods when produced, notwithstanding a portion of the material has already paid duty. (Com'r Boutw., *N. Y. Trib.*, Oct. 18, '62.) But see MANUFACTURES IN GENERAL, *supra*.

## GELATINE.

[Duty, five mills per pound.]

The duty on gelatine of all descriptions, in the solid state, is five mills per pound (§ 75). The duty is to be paid, and returns rendered, monthly, as of a manufacture.

## GINGER (Ground).

[Duty, one cent per pound.]

On ground ginger, and all imitations, the duty is one cent per pound (§ 75); to be paid monthly, on amount ground and sold.

**GLASS.**

All manufactures of glass, not otherwise specified, are subject to a duty of three per cent, ad valorem. (§ 75.)

The commissioner has decided that the process of uniting the parts of a glass lamp at the foot, and the burner, by the use of plaster of paris, cement, or other analogous means, is not a manufacture. (Com'r Boutw., *N. Y. Times*, Dec. 14, '62.) The decision will apply to glass inkstands with metallic tops united by the same or similar means.

**GLUE (Liquid and Solid).**

[Duty, twenty-five cents per gallon; five mills per pound.]

*Liquid.*—The duty on glue and cement, made wholly or in part of glue, to be sold in the liquid state, is twenty-five cents per gallon. (§ 75.)

*Solid.*—On glue and gelatine, in the solid state, the duty is five mills per pound (§ 75). The duty is to be paid, and returns rendered, monthly, as of a manufacture.

**GOAT SKINS.**

See **LEATHER**; **SKINS**, *infra*.

**GOLD AND GOLD LEAF.**

On all manufactures of gold a duty of three per cent, ad valorem, is imposed; to be paid monthly. (§ 75.)

*Gold leaf* is subject to a duty of 15 cents per pack of 20 books or less, of 25 leaves each. (§ 75, as amended.)

See **BULLION**, *supra*.

**GUNPOWDER.**

[Duty, five mills to six cents per pound.]

The following is the rate of duties imposed on gunpowder, including all explosive substances used for mining, blasting, artillery, or sporting purposes :

	Per Pound.
On powder valued at, or less than, 18 cents per pound.	5 mills.
On powder valued above 18 cents, and not over 30 cents, per pound.....	1 cent.
On powder valued above 30 cents per pound.....	6 cents.

The duty is to be paid, and returns rendered, monthly, on the amount manufactured and sold. (§ 75.)

See MANUFACTURES IN GENERAL, *infra*.

#### GRINDSTONES.

Grindstones are exempted from duty by the amendatory act of March 3, 1863, section 29.

#### GUTTA PERCHA.

On all manufactures of gutta percha, not otherwise specified, a duty of three per cent, ad valorem, is imposed; to be paid monthly. (§ 75.)

#### GYPSUM.

Gypsum is not to be considered a manufacture, and is therefore exempt from taxation. (§ 75, last clause.)

Manufacturers of gypsum are subject to license as dealers.

#### HATTERS.

Hatters are manufacturers, and require license as such, if their annual business exceeds \$1,000.

Under the act, as it stood before amendment, the duty on hats, &c., was assessed upon the full value of the article when finished; but, as the law now stands, no duty is imposed, where the materials used have already paid either internal or import duties, or are exempt, when the increased value does not exceed 5 per cent, ad valorem. (*Act of March 3, '63, § 29, p. 263.*)

Where it is the custom of the trade to sell manufactured hats and bonnets without trimming, persons whose business it is to trim hats and bonnets will not be regarded as manufacturers, requiring license. (*Com'r Boutw., Decis. No. 50.*)

#### HEADINGS, HOOPS, &c.

See COOPERS' STUFF, *supra*.

#### HEMP.

Manufactures wholly, or in part, of hemp, are liable to three per cent ad valorem duty (§ 75). The duty is to be paid monthly.

**HOGS.**

See **LEATHER**; **SLAUGHTERED CATTLE**, &c., *infra*.

**HOOP SKIRTS.**

Hoop skirts are to be deemed manufactures, and, as such, subject to a duty of three per cent, ad valorem.

But by the amendatory act of March 3, 1863 (§ 29, p. 263), materials for the manufacture of hoop skirts exclusively, and unfitted for other use, such as steel wire, rolled, tempered, or covered, cut tapes and small wares for joining hoops together, are exempted from all duty.

**HORN.**

Manufactures of horn, wholly or in part, not otherwise specified, are liable to three per cent ad valorem duty. (§ 75.)

**HORSE DEALERS.**

[License fee, \$10.]

Horse dealers pay \$10 for a license.

*Defined.*—Any person whose business it is to buy and sell horses or mules, is to be regarded a horse dealer, under the act. (§ 64, subd. 22.)

A horse dealer and cattle broker are distinct, and each requires a license.

By taking out a license as a livery-stable keeper (\$10), a horse dealer may avoid the necessity of a license as such. (§ 64, subd. 22.)

See **LIVERY-STABLE KEEPER**, *infra*.

A buyer of horses, as of cattle, who buys to stock his own farm, and by keeping them thereon adds materially to their value, is not to be regarded a horse dealer. If he buys merely to sell again, without making material additions to the intrinsic value of the animals, he is a dealer in every sense, and requires a license.

See **CATTLE BROKERS**, *supra*. **STALLIONS**, *infra*.

**HORSE SHOES.**

See **IRON**, *infra*.

**HORSE SKINS.**

See **LEATHER**, *infra*.



**HOSE (Conducting).**

[Duty, three per cent, ad valorem.]

A duty of three per cent, ad valorem, is imposed on conducting hose of all kinds for conducting water or other fluids. (§ 75.)

Hose is a manufacture, and the tax is paid by the manufacturer, monthly.

**HOTELS, TAVERNS, AND STEAMERS.**

[License fee, \$5 to \$200.]

*Defined.*—Every place where food and lodging are provided for and furnished to travelers and sojourners, in view of payment therefor, is to be regarded a hotel, inn, or tavern, under the act. (§ 64, subd. 11.)

Hotels are classified and rated according to the yearly rental, or, if not rented, according to the estimated rental, of the house and property intended to be occupied for the purpose.

The following is the classification :

1st class—	rental \$10,000, and upwards.....	\$200
2d “ “	5,000, and less than \$10,000..	100
3d “ “	2,500, “ 5,000..	75
4th “ “	1,000, “ 2,500..	50
5th “ “	500, “ 1,000..	25
6th “ “	300, “ 500..	15
7th “ “	100, “ 300..	10
8th “ “	“ 100..	5

The rental, or estimated rental, is to be fixed by the assessor at its proper value, but at not less than the actual rent agreed on by the parties.

*The penalty* for any fraud or collusion in the return of actual rent to the assessor is double the amount of license fee required. (§ 64, subd. 11.)

*A confectioner's* license will probably not be required of a hotel.

*A livery stable*, connected with the business of the hotel, probably does not require a separate license.

*A liquor-dealer's* license is required of a hotel selling liquors. (See LIQUOR DEALERS, *supra*, and Decis. No. 104, p. 322, *infra*.)

*A tobacconist's* license is not required of a regularly licensed hotel. (§ 64, subd. 16.)

*Gas.*—Hotel keepers making their own gas are taxable for it, the same as if bought. The amount used, if not measured, is to be estimated. (§ 75.) See *Gas, supra*.

*Restaurants.*—Hotels conducted upon the "European plan," or where guests are provided with food, at their order, in a public room or restaurant, do not require, we apprehend, a separate license as an eating-house, even though persons other than lodgers are accustomed to eat there.

*Steamers and vessels.*—Steamers and vessels upon United States waters, carrying passengers and providing food or lodging for them, must take out a license of the fifth class, at \$25. (§ 64, subd. 11.)

The provisions as to additional licenses required of hotels, as above, apply equally to steamers and vessels having hotel licenses.

## ICE.

See *DEALERS, supra*. *PEDDLERS, infra*.

## INDIA RUBBER AND INDIA-RUBBER CLOTH.

On all manufactures of India rubber, not otherwise provided for, a duty of three per cent, ad valorem, is imposed. (§ 75.)

The tax upon India-rubber cloth, or cloths prepared by a covering of India rubber and the like, is upon the *increased value* of the finished article. (Com'r Boutw., Decis. No. 5.)

See *CLOTH, supra*. *MANUFACTURES IN GENERAL*, article ii., § 2, *infra*.

## INSURANCE AGENTS.

[License fee, \$10.]

*Defined.*—Any person acting as agent of any fire, marine, life, mutual, or other insurance company, or companies, is regarded as an insurance agent. No license, however, is required of an insurance agent or broker whose receipts, as such agent, are less than six hundred dollars in any one year. (§ 64, subd. 38, as amended, p. 252)

**INSURANCE COMPANIES.**

[Duty on declared dividends, three per cent; on receipts for premiums and assessments, one per cent.]

**1. THE DUTY.**

Insurance companies are subject to two sorts of taxation. An indirect tax of three per cent is imposed upon dividends declared to stockholders and sums added to the surplus funds of the company. This tax on dividends the company may deduct from their payments of dividends to stockholders; and as this tax is more properly a burden on the stockholder, it is treated of separately, under the head of *DIVIDENDS, supra*.

In regard to the payment of this duty upon dividends, the company must, within thirty days after the time fixed for the payment of dividends, or when declared due, and as often as every *six months*,\* make a return, duly verified by the president or some proper officer, to the commissioner, at Washington, containing the amount of duties which have or should accrue on the dividends declared due, and which have been withheld from payments on account thereof.

The duties are to be paid at the time of making the return; and, in default thereof, the company is liable to a penalty of \$500.

Besides the tax on declared dividends, which the company may assume or not, a direct tax of one per cent is imposed upon the annual gross receipts for premiums and assessments.

Inland and marine insurance companies (and any individual or association engaged in the business of insurance from loss or damage by fire, or the perils of the sea) are required to pay quarterly, from October 1, 1862, a duty of one per cent upon the gross receipts for premiums and assessments by the company during the quarter then preceding. (§ 84.)

*But life-insurance companies* are not required to pay this duty (§ 85). The *dividends* of life insurance companies are taxable. This tax is not deemed due until the dividends are payable. Besides the regular divisions of profits to stockholders, all premiums or deposits returned must be considered as dividends to policyholders, from which three per cent must be withheld. (Com'r Boutw., Decis. No. 65.)

\* See *DIVIDENDS (INSURANCE COMPANIES)*.

Foreign insurance companies, having an office or doing business in the United States, must pay the same duties as domestic companies. (§ 84.)

By the amendments of March 3 (see Appendix, p. 272) the gross receipts for tickets or contracts of insurance against fatal or non-fatal injury to persons traveling by land or water are subject to one per cent duty on their amount. Unlike policies of insurance, these contracts are exempt from stamp duty.

The gross receipts for premiums and assessments are understood to mean all cash receipts, whether under the name of premiums, perpetual deposits for insurance, or in payment of the whole or part of premium notes.

Whenever any portion of the premium is refunded to the holder of an open policy, because the policy has not been used in full, the amount so refunded may be deducted from the premiums received during the quarter, and the tax paid upon the remainder. But this does not apply to money so refunded on which the tax has not been previously paid. (Com'r Boutw., Decis. Nos. 29, 65.) Amounts paid for *reinsurance* may be deducted from the returns of premiums received. (*Id.*, *N. Y. Trans.*, Feb. 10, '63.)

## 2. THE RETURN AND PAYMENT OF THE DUTY.

The duty on profits is to be paid quarterly, and within thirty days after the expiration of each quarter—that is, not later than Jan. 31, April 30, July 31, and Oct. 31, of each year. The company (except life-insurance companies) and the agents of foreign companies are required to render to the commissioner a true and faithful account of the insurance made, received, or continued, or indorsed upon any open policy, by them, during the preceding quarter, setting forth—

1. The amount insured;
2. The gross amount received; and
3. The duties accruing thereon.

To this must be annexed an affidavit, by one of the officers of the company, or by the agent in the case of foreign companies, that the statements in the account are just and true. (§ 85.)

The duties are to be paid quarterly, to the commissioner, at the time of rendering the quarterly account. The amount should be deposited with the nearest United States assistant treasurer, or designated depository, and his original certificate

therefor sent, with the return, to the commissioner of internal revenue. If more convenient, payment may be made by draft or in treasury notes. (Com'r Boutw., Decis. No. 65.)

Under the English statute it is held, that an agent of an insurance company, who has received premiums and duties for the office to whom he has given security, is liable for the duties. (*Rex v. Wrangham*, 1 *Crompt. & Jer.* 408.)

*Penalties.*—For neglect to make the return, properly verified, the company is liable to a penalty of \$500 (§ 82). And in case of neglect or refusal to render the return, or pay the duties, for thirty days after such return and duties are due, the assessor is to proceed in the manner prescribed in the general provisions. (§ 83. See § 11.) For default in the delivery of the quarterly account duly verified, or in the payment of the duties due by such account, the company or agent forfeits, in addition to the duty, \$5,000. (§ 85.)

#### IRON.

A duty of three per cent, ad valorem, is imposed on all manufactures of iron "not otherwise provided for." (§ 75, last clause.)

The manufactures of iron "otherwise provided for" are as follows, with the rates of duty annexed. The italics indicate the subjects added by the amendments adopted March 3, 1863:

	Per ton.*
All iron advanced beyond slabs, blooms or loops, and not advanced beyond bars or rods.....	\$1.50
Band, hoop and sheet iron not thinner than No. 18, wire gauge .....	1.50
Band, hoop and sheet iron thinner than No. 18.....	2.00
<i>Castings of iron, exceeding ten pounds in weight each, not otherwise provided for.....</i>	<i>1.50</i>
Cast iron, used for bridges, buildings or other permanent structure.....	1.00
<i>Horse shoes.....</i>	<i>2.00</i>
<i>Nuts and bolts.....</i>	<i>2.00</i>
Plate iron not less than $\frac{1}{8}$ of an inch in thickness.	1.50
Plate iron less than $\frac{1}{8}$ of an inch in thickness.....	2.00
Cut nails and spikes.....	2.00
<i>Railroad chairs (of wrought iron).....</i>	<i>2.00</i>

\* By regulation of the treasury department, a ton is 2,240 pounds, unless the contrary is specified in the act.

	Per ton.
Railroad iron.....	\$1.50
Railroad iron rerolled.....	.75
Rivets, over $\frac{1}{4}$ inch in diameter.....	2.00
Steel in ingots, bars, sheets, or wire, not less than $\frac{1}{4}$ of an inch in thickness, valued at seven cents per pound, or less.....	4.00
—— valued above seven and not above eleven cents.	8.00
—— valued above eleven cents per pound.....	10.00
Stoves and hollowware, per ton of 2,000 pounds.....	1.50

It is specially provided that bars, rods, bands, hoops, sheets, plates, nails, spikes, rivets, nuts, railroad chairs, bolts and horse shoes, manufactured from iron upon which the duty of \$1.50 per ton has been paid, shall be subject only to a duty of fifty cents per ton in addition.

*Bar iron*, used for stoves and hollowware, or for bridges, buildings, or other permanent structures, is chargeable with no additional duty beyond the specific duty of \$1.50 per ton.

*Car wheels*.—When the duty has been paid on car wheels as a separate manufacture, this duty may be deducted from the amount of duty assessed upon railroad cars. (§ 75, p. 263.)

*Pig iron*.—By the last clause of section 75, pig iron and iron not advanced beyond slabs, blooms or loops, are exempted.

*Pipe*.—Gas and water pipes and lamp posts, of iron, are taxable at \$1.50 per ton of 2,000 pounds, by a decision of the commissioner. See p. 313, *infra*.

*Steel wire*, manufactured exclusively for hoop skirts, is exempted by the amendatory act of March 3, 1863. (§ 29, p. 263.)

*Manufactures of iron* not above specified are subject to a three per cent ad valorem duty. But the articles must be "manufactures" having a known commercial value, and known to the trade as such. Thus, iron castings made upon the special order of a machinist, but not known to the trade as manufactures, are exempt. (Com'r Boutw., Decis. No. 8.) See p. 314.

One who manufactures castings, and uses them himself in the manufacture of other articles, pays a tax only on the last. The right to levy the tax depends upon the fact of sale, or removal for sale or consumption.

See MANUFACTURES IN GENERAL, *infra*.

Iron railings, composed of wrought-iron bars and cast-iron ornaments, are regarded as manufactures, and, as such, subject to a tax of three per cent, ad valorem. (Com'r Boutw., *N. Y. Post*, Feb. 9, '68.)

For the duty upon marine engines, see **MARINE ENGINES**.

#### IVORY.

The duty on all manufactures of ivory, not otherwise provided for, is three per cent, ad valorem. (§ 75.)

#### JEWELRY.

[Duty, three per cent, ad valorem.]

On all diamonds, emeralds, and all other jewelry, the tax is three per cent, ad valorem. (§ 75.)

Diamonds and emeralds are thus included among manufactures; and persons engaged in cutting and preparing these precious stones are manufacturers. "All other jewelry" must include all preparations and settings of jewels, as well as ornaments exclusively metallic, worn as jewelry.

Where the stones, however, have been previously cut and prepared for setting, and the tax thereon has been paid, the price, as made up and finished, will be assessed only for its increased value. (Com'r Boutw., *N. Y. Trans.*, Dec. 5, '62.)

See **MANUFACTURES IN GENERAL**, *infra*.

#### JUGGLERS.

[License fee, \$20.]

*Defined.*—Every person who performs by sleight of hand is to be regarded a juggler. (§ 64, subd. 19.) Unlike the theatre and circus license, the juggler's license is personal. It is the performer himself who is subject to the license; and a performer by sleight of hand, though belonging to a licensed circus or theatre, must take out a license.

A license procured in one State holds good in that State only, but it authorizes exhibitions throughout the State.

See **LICENSES IN GENERAL**, *infra*.

#### JUTE.

Manufactures of jute, not otherwise specified, are liable to three per cent ad valorem duty. (§ 75.)

#### KID SKINS.

See **LEATHER**, *infra*.

#### LAND-WARRANT BROKERS.

See **BROKERS (LAND-WARRANT)**, *supra*.

**LARD OIL.**

See OILS, *infra*.

**LASTS.**

See TIMBER, *infra*.

**LAWYERS.**

[License fee, \$10.]

*Defined.*—"Every person whose business it is, for fee or reward, to prosecute or defend causes in any court of record or other judicial tribunal of the United States, or of any of the States, or give advice in relation to causes or matters pending therein," is deemed a lawyer under the act. (§ 64, subd. 31.)

The license of a lawyer must be taken out at the place where the business or occupation is to be carried on.

Under the statute, before amendment, the commissioner decided that a lawyer having taken out license to practice law in a certain State, for one year, could not be permitted to remove (with the design of permanently locating) to another State, and practice his profession there, without having first taken out a new license in the State to which he may have removed. If, however, the office from which the lawyer removes be taken by another lawyer, his license might be made available to the new-comer, under section 63.

A lawyer licensed to practice law in a certain State may, however, go into another State, or into another county of the same State, on a temporary employment to argue a cause, or to give advice to clients, without being required to take out a license in such State or county.

A lawyer who displays a sign at his residence and transacts business there, as well as at his office, must take out two licenses. (Com'r Boutw., Decis. No. 10.)

By the amendatory act of March 3, 1863, § 25 (see Appendix, p. 245), a lawyer is not required to take out any additional license in consequence of practicing beyond the district where licensed.

See LICENSES IN GENERAL, *infra*.

The license authorizes only strict attorney or counsel business. If a lawyer advertises himself to the public as ready to procure patents, or prosecute claims against the Government, he must be licensed as a patent or claim agent, as the case may



be. But the commissioner has decided that if a lawyer, incident to his other business, occasionally prosecutes a claim against the Government, he need not be licensed as a claim agent.

By the late amendments, however, a regularly licensed lawyer need not take out a commercial-broker's license in consequence of being employed to purchase, rent or sell real estate, or to collect rent, in the ordinary course of his business. (§ 64, subd. 14, as amended, p. 248.)

Questions common to all licenses, such as partnership licenses, time to run, perpetuation of, penalties, &c., are treated of under the head of LICENSES IN GENERAL, *infra*.

### LEAD.

Manufactures of lead wholly, or in part, not otherwise specified, are subject to the duty of three per cent, ad valorem.

But lead in pigs or bars is specifically exempted from taxation as a manufacture. (§ 75, last clause.)

### LEATHER.

#### 1. THE DUTY.

The following rates of specific duty are imposed on the various kinds of leather enumerated :

Bend leather, per pound.....	1 cent.
Butt leather, " .....	1 "
Calf skins, tanned, each.....	6 cents.
Damaged leather, per pound.....	5 mills.
Deer skins, dressed or smoked, per pound.....	2 cents.
Harness leather, per pound.....	7 mills.
Harness leather, made from hides imported east of Cape of Good Hope, per pound.....	5 "
Offal leather, per pound.....	5 "
Oil-dressed leather, per pound.....	2 cents.
Patent or enameled leather, per square foot.....	5 mills.
Patent or enameled skirting leather, per square foot..	1½ cents.
Patent japanned split, used for dasher leather, per square foot.....	4 mills.
Sole and rough leather, hemlock tanned, except as below, per pound.....	7 "
Sole and rough, made from hides imported east of Cape of Good Hope, per pound.....	5 "

Sole and rough, tanned wholly or in part with oak, per pound.....	1 cent.
Upper leather, finished or curried, made from leather tanned in the interest of the parties finishing or currying, not previously taxed in the rough (except calf skins), per pound.....	1 "

But finished or curried upper leather, made from rough leather upon which the tax has actually been paid, is not subject to any additional tax in consequence of such finishing or currying. (Com'r Boutw., Decis. No. 3.)

All leather, whether damaged or sound, finished or curried, in the interest of the parties who tanned the same, is subject to a duty of one per cent per pound on the curried leather, provided the specific tax had not been previously paid on the tanned leather. (*Id.*, *N. Y. Times*, March 4, '63.)

The commissioner has ordered that rough leather, tanned in whole or in part with oak, which has already paid the tax of one cent per pound, shall not be subject to any further tax when manufactured into curried or finished upper leather. (*Id.*, *N. Y. Trib.*, Oct. 27, '62.)

See Decision No. 81, in Appendix, p. 307.

*Skins*.—Besides the specific duties on leather, there are ad valorem duties upon certain other species of leather, as follows :

Goat skins, curried, manufactured or finished.....	4 per ct.
Kid do.....	4 per ct.
Morocco do.....	4 per ct.
Sheep, tanned, curried or finished.....	4 per ct.
Hog, tanned and dressed.....	4 per ct.
Horse do.....	4 per ct.

The duty is payable either when tanned, curried or finished. (Com'r Boutw., *N. Y. Trib.*, Dec. 18, '62.)

*American patent calf skins* are liable to three per cent ad valorem duty.

*All manufactures* of leather, in whole or in part, not otherwise provided for, are taxable at three per cent, ad valorem. (§ 75.)

For limitation of this provision, see **BOOT AND SHOE MAKERS**, *supra*.

In regard to *oil-dressed* leather and dressed or smoked *deer skins*, the tax on manufactures of these skins into gloves, mittens or other articles, is to be assessed only upon the in-

creased value of the article over the skin; provided the tax on the skin has already been paid. (§ 75.)

*Tanning* leather, and manufacturing shoes, are distinct branches of manufactures, and the product of each must be taxed, though the same person may be engaged in both branches of business.

The cutting of soles, however, as subjecting the material to no new process affecting its quality, may be considered as part of the shoe-making, and exempt as such from taxation as a separate manufacture. (Com'r Boutw., Decis. No. 3.)

A tanner is a manufacturer, and if his business amounts to \$1,000 per annum, and he is not confined to tanning the leather of other parties for so much the pound or piece, must take out a license—\$10.

See LICENSES IN GENERAL, *infra*.

## 2. PAYMENT OF THE DUTY.

The tax is to be paid monthly by the tanner, on the sale or removal of the leather from the tannery. But a tanner who receives hides from other parties (owners), upon an agreement to tan the same by the piece, or by the pound, may remove the tanned leather, without inspection, to such owners, whenever it is ready to go forward, having first obtained and filed with the commissioner the written certificate of the assessor and collector of the district in which the tannery is situated, that in their judgment such removal will not be prejudicial to the just administration of the law; *provided* that every tanner so removing tanned leather shall make a monthly return, to the assessor of the district, of the number and weight of the sides or pieces of leather so removed; and provided that he shall furnish to the assessor, monthly, the inspector's certificate of the weight and quality of the leather so removed during the preceding month, and that the tax shall be paid in the district where the tannery is situated. (Com'r Boutw., Decis. No. 2.)

## LEGACIES AND DISTRIBUTIVE SHARES OF PERSONAL PROPERTY.

### 1. THE DUTY.

Legacies or distributive shares of any kind of personal property, exceeding \$1,000 in actual value, passing from any

person dying, after the 1st day of July, 1862, either by will, intestate laws, deed, grant, sale, or gift, intended to take effect after the grantor's death, to any person or corporation, are subject to the duty specified below.

The following are the rates of duty on personal property worth over \$1,000, acquired as above :

If passing to lineal issue or lineal ancestor, brother or sister of decedent, for each \$100 of clear value..	\$0.75
If passing to descendant of brother or sister, for each \$100 of clear value.....	1.50
If passing to brother or sister of either parent of decedent, or their descendants, for each \$100.....	3.00
If passing to brother or sister of either grand parent of decedent, or their descendants, for each \$100.	4.00
If passing to any other collateral, or stranger in the blood of decedent, or body politic or corporate, for each \$100.....	5.00
If passing to husband or wife of decedent, exempt from duty. (§ 111.)	

## 2. SCHEDULE OF PROPERTY.

The executor, administrator, or trustee having the property in charge must render, to the assistant assessor of the district of which the deceased person was a resident, a schedule of the amount of the property, together with the amount of duty which has or should accrue thereon. It must also contain the names of every person entitled to any beneficial interest therein, and the clear value of such interest. (§ 112.)

*Slaves* liberated by the last will and testament of their masters are not liable to the tax. However these people may have been regarded by the laws of a State previous to their emancipation, they cannot now be treated as personal property, nor could they have been treated so since the will of the testator was approved. The will had no other effect than to extinguish, as far as these persons are concerned, the claim to property which the law of the State had set up or recognized. (Com'r Boutw., *N. Y. Trib.*, Feb. 27, '63.)

*Exhibition of records and papers.*—It is the duty of every person having in his possession or custody any record, file, or paper, containing information of property subject to the legacy duty, to exhibit it, at the request of the collector, deputy, or

agent desiring to examine the same in the performance of his duty under the law.

*The penalty* for refusing to exhibit the paper or records, on request, is \$500 (§ 112). The penalties for failure to make the schedule, and for false statements in schedules, are stated below.

### 3. PAYMENT OF THE DUTY.

The executor, administrator, or trustee of the legator is the person liable; and on entering upon the performance of his trust, and before paying and distributing any portion of the property to legatees, or any parties entitled to beneficial interests therein, he must pay to the collector, or deputy of the district of which the deceased person was a resident, the amount of the tax; and the tax is a lien upon the property until fully paid. (§ 112, as amended.)

Upon the delivery of the schedule, and payment of the tax to the collector, the latter gives a receipt in duplicate.

The receipt given by the collector is sufficient evidence to entitle the person paying the duty to be allowed for such payment by the tribunals having jurisdiction of the accounts of executors and administrators. (§ 112.)

In the case of any delinquency in making the schedule, or in the payment of the duty, the assessment and collection is to be made as provided for in the general provisions of the act.

See THE ASSESSMENT, p. 13.

*In case of refusal or neglect* to pay the duty within the time above stated, or to deliver the schedule to the collector or deputy, or in case of giving a false schedule, or giving untrue names and relationships of the persons entitled to beneficial interests therein, or giving the value of the interests untruly, or where no administration shall have been granted under existing laws, the proper Federal officer is to commence such proceedings in law or equity before the proper Federal court to enforce and realize the lien upon the property, or any part of it for which the duty has not been paid. Under such proceedings the rate of duty enforced must be the highest rate imposed by the act. The action must be in the name of the United States against such person or persons as may have the actual or constructive custody or possession of the property or personal

estate, or any part thereof. The property must be sold upon the judgment, and the amount of duty, with costs and expenses, paid; the balance, if any, to be deposited according to the order of the court, to be paid under its direction to such person as establishes a lawful title to it.

*The deed* of the property or personal estate sold under such judgment, executed by the proper officer, vests in the purchaser all title of the delinquent to the property sold, and releases every other portion of such property or personal estate from the lien of the tax.

In all legal controversies where such deed or title may be the subject of judicial investigation, the recital in the deed is to be presumed to be true, and that the requirements of the law have been complied with by the officers of the Government. (§ 112.)

## LICENSES IN GENERAL.

- ARTICLE 1.** Who require license.  
 2. Requirements to obtain license.  
 3. Conditions of the license.  
 4. Perpetuation of license.  
 5. Penalties.

It is proposed to state, under this head, the provisions of the statute applicable to all the licenses. For more special information as to each kind of license, the particular kind should be consulted under its name, in the alphabetical arrangement. It is to be remarked at the outset that, in addition to any duty or license required by the act to be paid to the United States, the several States retain the power of taxing the same articles or business for State purposes. And a license granted under the United States excise law does not authorize the carrying on of any trade or employment within any State or Territory specially prohibited by the laws of such State or Territory. (§ 67.)

### ARTICLE 1.—WHO REQUIRE LICENSE.

After September 1, 1862, no person can engage in the trades or occupations enumerated below until a license therefor is obtained. (§ 57.)

The following persons and occupations are subjected to the license fee annexed to each :

Apothecaries.....	\$10	Horse dealers.....	\$10
Architects.....	10	Hotels, from.....	\$5 to 200
Auctioneers.....	20	Jacks, owners of.....	10
Bankers.....	100	Jugglers.....	20
Billiard rooms, for each table.	5	Lawyers.....	10
Bowling alleys, for each alley.	5	Livery-stable keepers.....	10
Brewers.....	\$25 to 50	Lottery-ticket dealers.....	1,000
Brokers in coin and securities.	50	Manufacturers.....	10
Brokers in cattle.....	10	Patent agents.....	10
Brokers, commercial.....	50	Pawnbrokers.....	50
Brokers, insurance.....	10	Peddlers.....	\$5 to 50
Brokers, land warrant.....	25	Photographers.....	\$10 to 25
Builders.....	25	Physicians.....	10
Butchers.....	\$5 to 10	Rectifiers.....	\$25 and upwards
Circuses.....	50	Retail dealers in liquors....	\$20
Civil engineers.....	10	Retail dealers in merchandise	10
Claim agents.....	10	Soap-makers.....	10
Confectioners.....	10	Stallions, owners of.....	10
Contractors.....	25	Surgeons.....	10
Dentists.....	10	Tallow chandlers.....	10
Distillers of coal oil.....	50	Theatres.....	100
Distillers of spirituous liquors,		Tobacconists.....	10
\$25 to	50	Wholesale dealers in liquors,	
Distillers of apples and peaches.....	\$12.50, \$25	\$25 to 500	
Eating-houses.....	10	Wholesale dealers in merchandise.....	\$25 to 500

No license is required for the sale of goods made and sold at the manufactory or place where the same are made. Thus, vintners selling wine of their own growth, at the place where made, require no license. (§ 66.)

Where the annual gross receipts or sales of an apothecary, confectioner, eating-house, tobacconist or retail dealer do not exceed \$1,000, no license is required of him. The amount or estimated amount of such annual sales is to be ascertained by the assistant assessors according to directions of the commissioner. (§ 65.)

#### ARTICLE 2.—REQUIREMENTS TO OBTAIN LICENSE.

Any person desiring to obtain a license to engage in any business requiring a license must register with the assistant assessor of the assessment district in which he designs to carry on the business an application, in which he must state—

1. His name, or, if a partnership, the name or style of the firm, with the name and residence of each partner.
2. The trade or occupation for which the license is desired.

3. The place where such trade or occupation is to be carried on.

4. If a *rectifier*, the number of barrels he designs to rectify. If a *peddler*, whether he designs to travel on foot, or with one, two or more horses. If an *innkeeper*, the yearly rental of the house and property to be occupied; or if not rented, the assistant assessor is to value the rental (§ 58). The application thus made is returned by the assistant assessor, duly certified, both to the assessor and collector of the district. The collector makes out the license and delivers it to the person applying, on payment of the duty. (§ 58.)

Persons requiring licenses may wait until they are called upon or notified by the assistant assessor, without incurring any risk. (Com'r Boutw., *N. Y. Trans.*, Oct. 27, '62.)

One who has not complied with requirements of the State law respecting his particular license, cannot become authorized to carry on the business by merely applying for and obtaining a license from the General Government. (§ 67.)

Thus, in New York, no license is required to become an auctioneer, and any citizen may become such by filing a bond as prescribed by statute. The license granted under the United States excise law cannot dispense with this requirement in New York.

### ARTICLE 3.—CONDITIONS OF THE LICENSE.

Every license must contain—

1. The purpose, trade or business for which the license is granted.

2. The true name and residence of the person or firm taking out the license.

3. If a *rectifier*, the quantity of spirits authorized to be rectified.

4. If a *peddler*, whether authorized to travel on foot or with one, two or more horses.

5. The time for which the license is to run,—which is one year from date; and the date of granting.

6. The place at which the trade or business for which the license is granted is to be carried on. This is not required of auctioneers' and peddlers' licenses.

The license must contain the name of the business for which it is granted. It may, however, be frequently difficult



to ascertain under which of the heads, enumerated above, a man's business would properly fall.

The distinction between dealers and manufacturers, dealers and peddlers, and other similar distinctions, are mentioned under the head of DEALERS, *supra*, and MANUFACTURERS, *infra*.

It is impossible to lay down an arbitrary rule by which to test a man's business. The law is explicit. Assistant assessors must exercise their best judgment, with the facts of each case in view. Parties who feel aggrieved can appeal to assessors. If any attempt were made to decide in advance, such a decision would confuse the judgment of the local officers, rather than aid it.

But, as a general rule, it may be stated that, if a person holds out to the public, by words, deeds or writing, that he is engaged in any kind of business requiring license, he must take license therefor, although the business in question may not be his chief or exclusive occupation. (Com'r Boutw., Decis. Nos. 10, 13.)

Where more than one business, subject to license, is carried on in the same place by the same person at the same time, license must be taken out for each, except as hereafter mentioned. (§ 61.)

Parties doing business as bankers, brokers, and land-warrant brokers, must take three licenses.

Incorporated banks dealing in coin, currency and exchange, are subject to license as brokers. (Com'r Boutw., *N. Y. Trans.*, Oct. 31, '62.)

But if a lawyer, for example, as incident to his other business, occasionally prosecutes claims against the Government, he need not be licensed as a claim agent (Com'r Boutw., *N. Y. Trans.*, Nov. 11, '61); and, under the amendatory act, he may collect rents, &c., without a commercial-broker's license.

So, a physician, as a part of his regular practice, may perform surgical operations without a surgeon's license. (Com'r Boutw., *N. Y. Trans.*, Oct. 27, '62.)

Physicians who keep on hand medicines solely for the purpose of making up their own prescriptions for their own patients, do not require a license as apothecaries. (§ 66.)

A licensed wholesale dealer may sell at retail without additional license. (§ 64, subd. 6.)

So, a licensed wholesale or retail dealer need not take out

a confectioner's license (subd. 21), nor an apothecary's license. (Subd. 28.)

Livery-stable keepers may deal in horses without a horse-dealer's license. (Subd. 22.)

Hotel keepers need not take out a tobaccoist's license. (Subd. 16.)

Eating-house keepers do not require a confectioner's or tobaccoist's license. (Subd. 12.)

Druggists and chemists using stills or other apparatus for the recovery of alcohol for pharmaceutical and chemical purposes do not require a distiller's license. (Subd. 9.)

*Where taken out—removals.*—The license must be taken out at the place where the business is to be carried on. Under the act, before amendment, a license authorized the carrying on of the business specified therein at the place mentioned in the license, only; though this did not prohibit the storage of goods in other places than the place of business. (§ 60.)

On the death of the licensed person, his representatives might carry on the business under his license, at his place; or if he removed, he might assign his license to another party. (§ 63.)

This principle proving unjust, and compliance therewith burdensome, congress has adopted an amendment (*act of March 3, '63, § 26, p. 245*), permitting a removal from the premises at which the party is licensed to carry on his business, and a renewal of the license at another place, for the residue of the term. This may be done by an indorsement on the license, without fee; and a fresh license is not necessary. A new entry of the premises to which the party removes must, however, be made.

See REGULATION No 103, pp. 318, 321.

There are some licenses, however, not local, by the statute as it stood. Thus, public exhibitions require but one license for the whole State. Going into another State, a new license must be taken out. And if this proviso, contained in subdivision 19 of section 64, relates to subdivisions 17 and 18 preceding, as we think it does, theatres, circuses, and jugglers are included in this limitation.

By the act of March 3, 1863, auctioneers cannot sell outside of their districts, but lawyers, physicians, surgeons, and dentists are not restricted to practicing, under one license, in the district where taken out.

The same party doing business in different places, must take out licenses for each place where the business is carried on.

A manufacturer of barrels who has several separate and distinct factories (even though the same are under one foreman, with but one office for the business of them all) must pay a license for each factory. (Com'r Boutw., *N. Y. Trans.*, Nov. 1, '62.)

The license of steam and sailing packets must in all cases be taken out, and the tax paid, by the person or persons having the care or management of the steamer or vessel specified in the law, at the principal terminus or landing thereof, whether such person or persons be known as owner, copartner, or agent. (Com'r Boutw., Decis. No. 24.)

*Time to run.*—All licenses are dated the first of the month in which they are issued, and expire in one year thereafter. (Com'r Boutw., *N. Y. Trans.*, Nov. 11, '62.)

The excise act went into effect September 1, 1862, and all licenses were to be dated from that date. But by the act of March 3, 1863 (§ 15, p. 243), the several assistant assessors are required, on the *first Monday of May* of the present year and of every year thereafter, to proceed through their districts and inquire after and assess persons liable to license duty. All licenses granted after the first day of May, in any year, expire on the first day of May following, and instead of paying the whole amount of the license fee, pay only a ratable proportion of the whole fee.

All licenses now possessed by parties are to be renewed on the first of May, 1863: that is, a new license is to be taken out for the eight months, from Sept. 1, '63, to May 1, '64, for which two-thirds of the fee is to be paid.

See REGULATION No. 94, p. 321, *infra*.

*Partnership licenses.*—Section 6 provides that any number of persons carrying on business in copartnership may transact such business at the place and in the manner specified in the license. In order that one license may avail for several persons or members of a firm, the assessor must be satisfied—

1. That a legal and *bona fide* partnership exists, and not merely an arrangement or understanding by which to evade the full effect of the law.

2. That the parties have a place of business, and only one place, which is common to all.

3. That the alleged members are mutually responsible for the acts of each other, and that they jointly share the benefits and suffer the losses of a common business.

4. That the parties, on no occasion, transact business on private account in the branch for which the firm purports to have been organized. (Com'r Boutw., Decis. No. 9.)

The individual members do not require a separate license; and this applies to lawyers, physicians, and the like, as well as to mercantile partnerships. (Com'r Boutw., *N. Y. Trans.*, Oct. 9, '62.)

But there must be an actual and legal partnership in all cases, and not a mere association of two or more persons in the same office or store. (Com'r Boutw., *N. Y. Trans.*, Oct. 9, '62.)

#### ARTICLE 4.—PERPETUATION OF LICENSE.

Upon the death of any person licensed to carry on a business, the collector is authorized to empower the representatives of the deceased person, by indorsement on the license or otherwise, to carry on the business for the residue of the term, without additional fee. Or upon his removal, a perpetuation may be had to his assignee in the same manner. But the premises are to be occupied for the same purpose, and the same business is to be carried on, as before, under such assigned license. A fresh entry of the premises is also to be made by and in the name of the persons continuing the business. (§ 63.)

#### ARTICLE 5.—PENALTIES.

The penalty for not taking out a license required by the act is three times the amount of the duty imposed for the license, one moiety thereof to the United States, and the other to the collector first discovering the fraud, or to any person first giving information whereby the forfeiture is incurred. (§ 59.)

By the amendatory act of March 3, 1863, any person knowingly exercising an occupation, subject to license duty, without taking out a proper license, is liable, upon conviction, in addition to the above penalty, to imprisonment of not over two years.

For instructions of the commissioner as to prosecutions for licenses, see Appendix V., page 301.

#### LIGHTERS.

Lighters and steam tow-boats are not subject to taxation

under the excise law. (Com'r Boutw., *N. Y. Trans.*, Oct. 29, '62.)

### LIME AND LIME-KILNS.

Lime is not to be regarded a manufacture, and is therefore exempt. (§ 75, last clause.)

By the decision of the commissioner, proprietors of lime-kilns are to be classed under the head of dealers, and as such require a license. (Com'r Boutw., *N. Y. Trans.*, Oct. 30, '62.)

### LINSEED OIL.

See OILS, *infra*.

### LIQUOR DEALERS (Wholesale and Retail).

[Wholesale dealer's license, \$25 to \$500; retail dealer's license, \$20.]

1. *Wholesale dealer*.—Every person, other than the distiller or brewer, who sells "distilled spirit, fermented liquors, and wines of all kinds, in quantities of more than three gallons at one time, or whose annual sales exceed \$25,000," must take out a wholesale liquor-dealer's license. (§ 64, subd. 42, as amended.)

Before the amendment, the license fee was \$100, without regard to the amount of annual sales. Under the amendment, the license fee is controlled by the amount of business done, and is the same as required of wholesale dealers in merchandise, as follows:

For annual sales from	\$25,000 to	\$50,000, license,	\$25.
" " " "	50,000 "	100,000, "	50.
" " " "	100,000 "	250,000, "	100.
" " " "	250,000 "	500,000, "	200.
" " " "	500,000 "	1,000,000, "	300.
" " " "	1,000,000 "	2,000,000, "	500.

For annual sales over \$2,000,000, for every additional million an additional \$250.

A license to wholesale liquor, confers no authority upon the party holding such license to retail liquor. Nor does a license to sell liquor authorize the sale of any other kind of merchandise. (Com'r Boutw., Decis. No. 18.)

A license as a dealer, wholesale or retail, of merchandise, gives no authority to sell wines or liquors. (§ 64, subd. 6.)

A *rectifier's license* does not authorize the sale of liquors. Rectifiers are required to take out licenses as liquor dealers in

## LITHOGRAPHERS—LIVERY-STABLE KEEPERS. 123

all cases where they sell their liquors. (Com'r Boutw., *N. Y. Trans.*, Nov. 8, '62.)

*Neither distillers nor brewers* require a license as wholesale liquor dealers, if their sales are made at the distillery or brewery. Distillers and brewers selling liquor from a store-house or vault not connected with the distillery or brewery, require liquor-dealers' licenses. (Com'r Boutw., *N. Y. Trans.*, Nov. 14, '62.)

2. *Retail dealers* pay \$20 for a license. A person is regarded a retail liquor dealer who sells "distilled spirits, fermented liquors or wine of any description, in quantities of three gallons or less, and whose annual sales do not exceed \$25,000." This does not include distillers and brewers. (§ 64, subd. 43, as amended.)

*Eating-houses*, though licensed as such, require a liquor-dealer's license for the sale of liquors on the premises. Hotels are not allowed to sell liquors to be taken off the premises. They require a license.

*Distillers*, rectifiers and brewers selling in quantities less than three gallons, even on the premises of the distillery, brewery, &c., require a retail dealer's license.

For the duties on fermented liquors and distilled spirits, see BREW; DISTILLED SPIRITS, *supra*.

## LITHOGRAPHERS.

See ENGRAVERS, *supra*.

## LIVERY-STABLE KEEPERS.

[License fee, \$10.]

Livery-stable keepers pay \$10 for a license. Any person whose occupation or business is to keep horses for hire or to let, is to be regarded a livery-stable keeper. (§ 64, subd. 23.)

A livery-stable keeper does not require a horse-dealer's license to enable him to deal in horses (§ 64, subd. 22), though a horse dealer cannot set up a livery stable without additional license.

A stable where horses are kept for the exclusive use of the guests of a hotel with which it is connected, is not, doubtless, subject to the license. So, a stable where horses are boarded, but no horses are hired out to the public, does not require a license.

**LOTTERIES.**

[License fee, \$1,000.]

*Defined.*—Every person, association, firm, or corporation who make, sell, or offer to sell lottery tickets or fractional parts thereof, or any token, certificate, or device representing or intended to represent a lottery ticket or any fractional part thereof, or any policy of numbers in any lottery, or manage any lottery or prepare schemes of lotteries, or superintend the drawing of any lottery, is to be deemed a lottery-ticket dealer. (§ 64, subd. 37, as amended.) See Decisions on p. 312.

*Lottery tickets* are subject to a stamp duty, and lottery-ticket dealers are liable to heavy penalties for neglect to affix the proper stamps. For full information as to the stamp duty imposed, the penalties, &c., Book IV. on the **STAMP DUTY**, *post*, should be consulted.

The fact that lottery-ticket dealers are licensed and lottery tickets taxed by the United States laws, does not authorize the business of lotteries within any State or Territory where they are specially prohibited by the laws thereof; nor does it prevent the States from taxing the business additionally for State purposes. (*Act of March 3, '63*, § 2, p. 285, *infra*.)

**LUMBER.**

By the last clause of section 75, boards, shingles and other lumber and timber are exempted from duty.

The distinction between lumber and timber is slight. "Lumber," in the section, would seem to include boards, shingles, beams, planks, &c., in *the rough*; while "timber" is lumber "partially wrought" into various articles which are specified in the section.

See **TIMBER**, *infra*.

Lumber is exempt only when in the rough, as coming from the saw-mill. When cut, planed, matched and grooved, or beveled, and thus or otherwise prepared for dimension-boxes or other packages, whether it is used on the premises where prepared, or sold in the market, it is to be considered a manufacture. (Com'r Boutw., Decis. No. 60.)

Owners and workers of planing or other mills, where lumber is prepared for specific purposes, are manufacturers, and require a license. They must make the monthly manufacturer's return, and pay the duties monthly.

See **MANUFACTURES IN GENERAL**, *supra*.

The commissioner has decided that assessors may assess as dealers persons who sell logs and lumber in rafts, and the assessors will report to the collectors accordingly, and the license will be prepared in conformity with such returns. Applications for license should be made, and the license issued, in the district where the licensee resides. (Decision N. 68.)

#### MACCARONI AND VERMICELLI.

The commissioner decides that macaroni and vermicelli are manufactures, and subject to three per cent, ad valorem duty.

#### MAGAZINES.

Magazines, with books, pamphlets, newspapers, reviews, and all other similar publications, are not to be regarded as manufactures, and are, therefore, exempt. (§ 75, last clause.)

For the duty on advertisements, see NEWSPAPERS, *infra*.

Publishers of magazines are dealers, requiring license as such. Whether wholesale or retail, see PUBLISHERS, *infra*.

#### MALT.

Malt is not to be regarded as a manufacture, and is, therefore, exempt. (§ 75, last clause.)

#### MANUFACTURERS.

[License fee, \$10.]

##### 1. THE LICENSE.

Manufacturers pay ten dollars for a license.

*Defined.*—"Any person or persons, firms, companies, or corporations who shall manufacture, by hand or machinery, and offer for sale, any goods, wares or merchandise, or who shall manufacture, by hand or machinery, for any other person, goods," exceeding annually \$1,000, is to be regarded a manufacturer. (§ 64, subd. 29, as amended.)

In general, one requires a license who manufactures, for sale, articles known to the trade as manufactures, and which have a known commercial value. Articles not so known are not deemed manufactures, and the makers, therefore, not manufacturers. Thus, repairs, special iron castings of no general value, the engraving of a particular individual's initials for a stamp, the printing of special placards to order, &c., &c., are not manufactures, and the commissioner has decided that persons engaged *exclusively* in such employments are not manufacturers. In the case of engravers, the commissioner



decides that, even where he finds his own material and cuts a stamp, seal, or die, for a specific purpose, so that it would be of no special value to any one but the owner, he is not a manufacturer. (Com'r Boutw., *N. Y. Trans.*, Dec. 16, '62.)

To ascertain whether a manufacturer's annual receipts amount to \$1,000, the sales from taxable manufactures *only* are to be taken. Receipts derived from repairs, special job work, &c., are not to be included. But, as in the case of dress-makers, tailors and the like, the price of the goods (and not the labor only), as finished, is to be included. (Com'r Boutw., *N. Y. Trans.*, Dec. 3, '62.)

*Custom work.*—By the amendatory act of March 3, 1863, tailors, boot-makers, milliners, and dress-makers are exempted from payment of duty on articles made to order, to the amount of \$1,000, and pay only one per cent, ad valorem, on their custom work when it exceeds \$1,000 a year. It is doubtful whether this limitation affects their liability to license as manufacturers. The commissioner has decided that a person, though manufacturing *only* to order, and offering no goods for sale, is a manufacturer. (Com'r Boutw., *N. Y. Post*, Oct. 21, '62.)

*Mechanics.*—The commissioner decides that mechanics, such as carpenters, masons, and painters, who furnish respectively the material commonly used by them, will be required to take license as *dealers*, whenever their annual sales of such material exceed \$1,000.

It would be impossible in this place to specify each trade or business requiring a manufacturer's license. We cite only a few, which the commissioner has decided, one way or the other:

*Gold and silver foil* is a manufacture, and makers of it require license. (Com'r Boutw., *N. Y. Trib.*, Nov. 20, '62.)

*Jewelry.*—Persons engaged in cutting and preparing diamonds, emeralds, and other jewelry, are manufacturers. (*Id.*, *N. Y. Trans.*, Oct. 29, '62.)

*Job printers*, lithographers, and the like, are manufacturers or dealers, as the case may be.

See PRINTERS, *infra*.

*Stationers* who prepare blank books, diaries, &c., are manufacturers. (*N. Y. Trans.*, Dec. 12.)

*Stone cutters*, and workers in marble, &c., are required to take out license as manufacturers. (*Id.*, *N. Y. Trans.*, Oct. 30, '62.)

## 2. THE LICENSE, WHERE TAKEN OUT.

The license is to be taken out in the district where the factory is situated. (Com'r Boutw., Decis. No. 4.) When a manufacturer—*e. g.*, a cooper—has several shops, but all under the charge of one foreman, and has but *one* office where the buying and selling, and all business connected therewith, is conducted, a license is required for each shop. (*Id.*, *N. Y. Trans.*, Nov. 1, '62.) Owners of more than one mill or factory must take out a license for each, when they are on separate and distinct premises. (*Id.*, *N. Y. Trans.*, Nov. 17, '62.)

## 3. APPLICATION FOR LICENSE.

It is provided, by section 68, that manufacturers, before commencing any manufacture, or if already commenced, within 30 days after the act takes effect (Sept. 1, '62), must furnish the assistant assessor of the district where the manufacture is to be carried on with a verified statement, setting forth—

1. The place where the manufacture is to be carried on.
2. The name of the article manufactured, or proposed to be manufactured.
3. The proposed market, whether foreign or domestic.
4. Generally, the kind and quality of the manufactured article. (§ 68.)

*The penalty for failure to comply with this provision is \$500, and forfeiture of goods. (§ 71.)*

See LICENSES IN GENERAL, *supra*.

## MANUFACTURES IN GENERAL.

## ARTICLE 1. THE DUTY—WHO IS LIABLE FOR.

- Section 1. The manufacturer.
2. The purchaser.

## ARTICLE 2. THE DUTY—HOW AND UPON WHAT ESTIMATED.

- Section 1. The full value.
2. The increased value.
3. Manufactures used in the construction of other manufactures.
4. Enumeration of manufactures.
5. What constitutes a manufacture.

## ARTICLE 3. PAYMENT OF THE DUTY.

- Section 1. When paid—monthly returns.
2. Where paid.

## ARTICLE 4. PENALTIES, AND PROCEEDINGS TO COLLECT UNPAID TAXES.

Sections 68 to 88, inclusive, contain the provisions relating to the several *specific* and *ad valorem* duties imposed by the act.

For the amount of duty upon each manufacture, the reader is referred to the name of the article in its alphabetical order.

Under this head it is proposed to state the requirements of the act relating to manufacturers' returns, the payment of the tax, penalties for non-compliance, and such general observations on the subject as may be suggested.

For all matters relating to the manufacturers' license; amount of; application for; who are deemed manufacturers requiring license, &c., consult MANUFACTURERS, *supra*.

#### ARTICLE 1.—THE DUTY—WHO IS LIABLE FOR.

##### § 1. *The Manufacturer.*

Manufacturers pay either a specific or an *ad valorem* duty, as provided by the act, upon every manufacture, where sold or removed for sale, from their factory, except as below stated:

Every manufacturer whose business amounts to \$1,000 per year, requires a license; but he need pay no duty upon his manufactures unless his yearly business exceeds \$600. Where the annual product of his manufactures fall under that amount, he is exempt. This does not include spirituous and malt liquors, and manufactured tobacco (§ 73). The same section provides that all articles manufactured by a person for his own use or consumption are exempt. But "this shall not apply to any business or transaction where one party furnishes the materials, or any part thereof, and employs another party to make or finish the articles, paying or promising to pay therefor, and receiving the articles" (§ 73). The best construction we can give to this proviso is, that parties doing custom work, on material furnished them by their employer, must pay duty on the article when made, notwithstanding their annual receipts amount to less than \$600.

Thus, tailors, dress-makers, and the like, making articles from material furnished by the employer, must pay a duty on the manufactured article when finished, even though their annual receipts are under \$600. The \$600 limitation, in the case of tailors, boot-makers, milliners, and dress-makers, is now enlarged to \$1,000.

See Decision No. 83, p. 308, *infra*.

But the employee may avoid paying the duty by the following regulation of the commissioner:

When one party furnishes the materials, or any part there-

of, and employs another party to manufacture, make, or finish the goods, wares, and merchandise, or articles, paying or promising to pay therefor, and receiving the goods, wares, or articles, whether the parties are in the same or in different places, the party so employed may not be required to pay the tax on the value thereof; *provided* that, at the request of the assessor, or assistant assessor, the party employed shall make out a list, subscribed and sworn, which list shall state the number or quantity of the goods or articles manufactured, made, or finished, during each month, as may be required by law in each case, and, as near as may be, the value thereof, together with the name and usual place of business of the party for whom the labor is performed. If the parties have their usual places of business in the same district where the list is made out, then the tax due thereon shall be assessed to the party for whom the labor is performed. But if the parties have their usual places of business in different districts, then the assessor receiving such list shall transmit it to the assessor of the district wherein the party for whom the labor is performed has his usual place of business, to the end that the tax due on such list may be paid by such party. (Com'r Boutw., Decis. No. 46.)

The duties are to be paid by the manufacturer, whether made for sale by himself or by others. In the case of goods manufactured in whole or in part upon commission, or where the material is furnished by one party and manufactured by another, if the manufacturer is required to pay the tax imposed on his manufacture, he is entitled to collect the duty paid by him of the owner, and has a lien for the amount on the manufactured goods. (§ 69.)

It has been suggested that those who perform the larger part of the manual labor should be regarded as the manufacturers. This view is not warranted by the law. It is the general fact, that a manufacturer does not contribute any considerable portion of manual labor needed in the branch of business which he pursues.

He furnishes only the capital and business capacity necessary for the support and management of the business.

The decision upon this point, then, must be, that the manufacturer is he who furnishes the materials, the money, and the skill employed in the management of the business. (Com'r Boutw., Decis. No. 36.)

So, whenever a person is the owner of a patent, or the right to manufacture a patented article, and employs other persons to make such patented article, the patentee, or owner of the patent right, will be regarded as the manufacturer, and the tax will be assessed upon the sales, as made by him or his agents. (*Id.*, Decision No. 77.)

When persons are employed by tobacconists, for example, or dealers in cigars, whether in some town or at a distance, to manufacture cigars, and for this purpose receive tobacco from their employers to be made into cigars, which, when finished, are returned to the employers, such persons may not be required to pay the value thereof; *provided*, at the request of the assessor, they make out a list, subscribed and sworn to, which list shall state the number of cigars so made during each month, and, as near as may be, the value thereof, with the name and residence of the person to whom the cigars have been returned. If the same employer to whom the cigars are returned resides or has his usual place of business in a district in which the list is made out, then the assessor shall transmit it to the assessor of the district where such employer resides or has his usual place of business, to the end that the duties due thereon under the excise law may be paid by the employer; but if the parties live in the same district, the assessor will assess the amount due on such lists to the employer. (Com'r Boutw., Decis. No. 48.)

Commissioner Boutwell says: "Representations have been made to this office that parties who hold tobacco, and others who have been engaged in manufacturing cigars, are in the habit of making nominal sales of such tobacco, at prices much below its present value, upon the condition that a certain quantity of cigars shall be received in payment or in consideration therefor, at prices much below their value in the market. These, and all similar transactions, are violations of the excise law, and collectors and deputy collectors are authorized and required to seize tobacco and cigars which have been or are the subjects of such transactions, and proceed, under section 114 of the excise law, for forfeiture of the same to the Government." (Decision No. 76.)

A manufacturer of any article for the Government must pay the tax as though he were selling to an individual. (Com'r Boutw., Decis. No. 6.)

*The manufacturer of cloth is the person who finishes the*

cloth or other fabric of cotton, wool, or other material; not the maker of the thread used exclusively in its manufacture. (§ 69.)

See CLOTH; EXEMPTIONS; FABRICS, *supra*.

### § 2. *The Purchaser.*

Where contracts for the manufacture or purchase of manufactured articles were made in good faith before the passage of the act, the taxes on the articles are to be paid by the purchaser (§ 69). And the commissioner decides that upon manufactures produced since August 31, 1862, and delivered under contracts of sale made prior to July 1, the manufacturer must pay the duty upon such goods, without regard to the fact of such contract. But the manufacturer may collect of the purchaser the amount of taxes paid, on satisfactory proof to the commissioner that the contract was made prior to July 1, and in good faith between the parties and towards the Government, and that the taxes properly assessed upon such goods have been actually paid by the seller. (Com'r Boutw., *N. Y. Trans.*, Oct. 30, '62.)

This rule is modified by section 12 of the act of March, 1863 (p. 242, *infra*), which exempts from taxation fermented liquors, distilled spirits, refined coal oil, and cotton and woolen fabrics manufactured or produced prior to September 1, 1862.

## ARTICLE 2.—THE DUTY, HOW AND UPON WHAT ESTIMATED.

### § 1. *The full Value.*

The ad valorem tax is to be paid on the cash value of the goods sold—*i. e.*, when sold on time, the legal rate of interest is to be deducted. (Com'r Boutw., *N. Y. Trans.*, Oct. 30, '62.) The goods must pay tax upon their value in the market, at the time they are sold or removed to another than agent. (*Id.*, *N. Y. Trans.*, Nov. 17, '62.) Goods in process of manufacture September 1, 1862, are liable to the duty on their whole value. (*Id.*, *N. Y. Trans.*, Nov. 17, '62.)

See Decision No. 79, in Appendix V., page 307.

### § 2. *The increased Value.*

The clause of section 75, imposing the three per cent tax on all manufactures of cotton, wool, silk, &c., contains a proviso "that, on all cloths dyed, printed, bleached, manufactured,

or prepared, the said duty or tax of three per centum shall be assessed only upon the increased value thereof."

Under this provision, white cloths may be dyed and printed; brown cloths may be bleached; oil-cloth, India-rubber cloth, or enameled cloth, may be manufactured, or prepared, and the manufacturer be liable to taxation for the increased value of his product, over the value of the basis or primary manufacture on which the tax shall have been previously paid. This construction appears to give reasonable and adequate scope to the language employed; and this proviso, being an exception to the general policy of the law, which is to tax such distinct manufacture at its full commercial value, no broader construction can properly be made. It refers only to such preparations of cloth by which the cloth itself remains intact; if, however, the cloth is cut, so as to be made into garments, then the tax must be paid on the full value. (Com'r Boutw., Decis. No. 5.)

Thus, the tax on *enameled and rubber cloth* is assessed upon the increased value of the cotton cloth of which it is made, even though no duty has been paid on such cotton cloth.

By the amendatory act of March 3, 1863 (§ 30, p. 264), cloths of the above-mentioned kind, manufactured into fabrics, which were removed from the factory prior to September 1, 1862, or which have been, or shall be, imported, are dutiable on their increased value, whether any duty on the unprepared cloth was paid or not. And whenever the duty has been assessed upon the full value of cloth manufactured prior to September 1, 1862, or which was imported prior to March 3, 1863, and has been prepared into fabrics since September 1, 1862, the duty so paid is to be refunded by the commissioner of internal revenue.

*Oil-dressed leather*, and deer skins dressed or smoked, manufactured into gloves, mittens, or other articles, on which a duty shall have been paid before so manufactured, are dutiable upon the increased valuation. (§ 75.)

*The tax on diamonds and emeralds*, when previously cut and prepared for setting, will be assessed only on the value of the setting. (Com'r Boutw., Decis. No. 39.)

*Bar, hoop, and sheet iron*.—It is specially provided that bars, rods, bands, hoops, sheets, plates, nails and spikes, manufactured from iron upon which the duty of \$1.50 per ton has been paid, shall be subject only to a duty of fifty cents per ton

in addition. Bar iron, used for stoves and hollowware, or for bridges, buildings, or other permanent structures, is chargeable with no additional duty beyond the specific duty of \$1.50 per ton. (§ 75.)

See IRON, *supra*, and Decision on p. 314, *infra*.

§ 3. *Manufactures used in the Construction of other Manufactures.*

The general principle of the excise law is, that each particular manufacture is taxed for its value, though materials used in its production are, in themselves, manufactures on which a duty has been previously paid. (Com'r Boutw., Decia. No. 1.)

This principle is greatly modified by the late amendments, and, as the law now stands, all articles manufactured of materials upon which either internal or import duties have been paid, or upon which no duty is imposed, are exempt from taxation as distinct manufactures when their increased value does not exceed five per cent, ad valorem. (*Act of March 3, '63, § 29, page 263.*)

With this important provision in view, the decisions of the commissioner on the law as it stood may be applied. The commissioner decides that, where a person makes castings only, he must pay the tax thereon. If, however, he manufactures castings, and uses them himself in the manufacture of other articles, the tax can only be assessed on the last. The right to levy the tax depends upon the fact of sale, or removal for sale or consumption. (Decis. No. 8.) See Decision on p. 314.

*The tax on carriages*, as a manufacture, is on full value when made, though made up of articles already taxed. (Com'r Boutw., *N. Y. Trans.*, Oct. 27, '62.)

*Clothing* is a manufacture, to be assessed for its full value, though made up of cloth, silk, &c., upon which duty has already been paid.

Sandpaper is assessed for its full value when finished, though made of paper, glue, and prepared sand, upon all three of which duty has been paid. (*Id.*, *N. Y. Trans.*, Nov. 15, '62.)

*Paper hangings*, manufactured from blank paper, as a foundation, made elsewhere and duty paid thereon, must pay tax upon their actual value. If the blank paper is made in the same factory and used exclusively in the manufacture of paper hangings, it is not a distinct manufacture subject to the duty.



§ 4. *Enumeration of Manufactures.*

Section 75 contains an extensive enumeration of articles subject to specific and ad valorem duties. It is, however, to be considered that only a limited number of articles subject to taxation under the law are thus enumerated.

The enumeration is limited to articles produced, as distinguished from those which are manufactured; to those manufactures which are peculiar in character; to preparations which cannot be strictly classed either as productions or manufactures; and to manufactures, productions, and preparations on which congress saw fit to impose specific duties or exceptional rates of ad valorem duties. Following the enumeration is a provision sufficiently broad in language to include every variety and form of manufactures not otherwise specially provided for.

To cover any omission, and to comprise every manufactured article, manufactures of the following articles, not otherwise specified, are subject to three per cent ad valorem duty: Bone, brass, bristles, copper, cotton, flax, glass, gold, gutta percha, hemp, horn, India rubber, iron, ivory, jute, lead, leather, paper, pottery, silk, silver, steel, tin, willow, wood, wool, worsted, zinc, and other materials.

§ 5. *What constitutes a Manufacture.*

*In general.*—To make an article liable to duty as a manufacture, it must be known to the trade as a manufacture in itself, distinct from anything else, and salable generally to the public. Thus, for example, articles produced by job printers, lithographers, and engravers, which are made upon specified orders, not known as articles of commerce, are exempt from duty as manufactures. (Com'r Boutw., Decis. Nos. 42, 51, 71.) See Appendix V., Decision No. 79, p. 307, *infra*.

See ENGRAVER, *supra*.

Carpets and curtains, when prepared by dealers in those articles, upon special orders, to suit specified rooms and windows, are not regarded as manufactures, nor liable to taxation as such. (*Id.*, Decis. No. 37.)

Under the provisions of section 75 of the excise law, under which building stone is declared not to be a manufacture, it is held that stone dressed for buildings, whether rough hewn or carved, is not subject to taxation, provided that arti-

cles manufactured from stone, marble, or slate, such as fire-places and mantle-pieces, even though designed for particular buildings, but which are of such nature that they might be introduced into the commerce of the country as articles of traffic, are subject to a tax of three per centum, ad valorem. Other manufactures of stone, marble, or slate, which are recognized as articles of traffic, are subject to a tax of three per centum, ad valorem. (*Id.*, Decis. No. 56.)

Gravestones and monuments made to order from the rough material, from plans or designs, are not manufactures, and, as such, are exempt; provided that no monument or gravestone shall be considered as "made to order" which is wrought further than the block or slab before the order for it is given. (*Ib.*)

A maker of gangs of rigging, or parts of gangs, such as stays, guys, shrouds, or other such standing rigging as has a separate commercial name and value, must be considered a manufacturer. If he makes up his customers' materials, he must pay the tax, but may charge it in his bill for labor, and has a lien upon the rigging until the bill is paid. (Com'r Boutw., *N. Y. Trans.*, Dec. 16, 62.)

What articles, therefore, may be considered manufactures within this rule, must be left to the ordinary judgment of the tax payer.

*Exceptions.*—By the statute, certain articles which are manufactures, in the general acceptance of the term, are specifically exempted. They will be found enumerated under the head of EXEMPTIONS, *supra*, p. 92. Besides those there enumerated, there are other exemptions, as follows:

Materials for the manufacture of hoop skirts exclusively, and unfitted for other use, such as steel wire, rolled, tempered, or covered; cut tapes and small wares for joining hoops together. (*Act of March 3, '63*, § 29, p. 263.)

*Thread or yarn*, manufactured and sold exclusively for knitted fabrics, or for weaving or spooling, when the spinning or weaving for the manufacture of cloth is carried on separately, is not a manufacture within the act. The taxes are assessed on the cloth when prepared for use, the person so finishing or preparing it paying them (§§ 69, 75). In order that yarns or threads may be exempted from duty as manufactures, the manufacturer must satisfy the assessor that such yarns or threads were manufactured and sold, or delivered, ex-

clusively for knitted fabrics, or for weaving or spooling. When yarn or thread is delivered to a merchant or dealer for sale, it cannot be presumed that the articles will be sold by him exclusively for knitted fabrics, or for weaving or spooling; and, in such cases, the yarns or threads are, *prima facie*, manufactures, and, therefore, subject to duty. (Com'r Boutw., Decis. No. 58.)

*Labor not taxed.*—It must be borne in mind that the tax is laid on the manufactured article, and not on the labor performed upon it. Thus, the commissioner has decided that the rendering of tallow is not a manufacture. (Com'r Boutw., *N. Y. Trans.*, Nov. 11, '62.) Persons engaged in the business of grinding salt and rice are not manufacturers. (*Id.*, *N. Y. Trans.*, Oct. 29, '62.) Owners of planing mills, receiving lumber to be planed, dressed, or matched for flooring by them, they merely charging their customers for their labor upon the same, are not liable to tax. (*Id.*, *N. Y. Trib.*, Oct. 31, '62.) But whenever lumber is cut, planed, matched, tongued, and grooved, and beveled, and thus or otherwise prepared for dimension-boxes or other packages, whether it is used on the premises where prepared, or sold in the market, it shall be considered a manufacture, and used as such. (*Id.*, Decis. No. 60.) The placing of a mirror or picture in a frame does not constitute a new manufacture, nor render the article liable to additional taxation. (*Id.*, Decis. No. 55.) Persons whose business it is to trim hats and bonnets are not manufacturers where it is the usage of the trade to sell hats and bonnets without trimming. (*Id.*, Decis. No. 50.) So, fitting different parts of a glass lamp or inkstand together, by means of plaster of Paris or other substances, is not a manufacture. (*Id.*, *N. Y. Times.*, Dec. 14, '62.)

But cutting and preparing precious stones is a manufacture.

Repairs done by a mechanic are not manufactures; and, in estimating his amount of business, the receipts for repairs are to be left out. Where work involves the expenditure of much labor, and but little new material, and where a little new is added to much old material, to preserve it, such work may be regarded as repairs. (Com'r Boutw., *N. Y. Trans.*, Dec. 16, '62.) See p. 314, *infra*.

*Blank books* are a manufacture. (*Id.*, *N. Y. Trib.*, Nov. 8, '62.)

*Cider and vinegar* are manufactures. (*Id.*, *N. Y. Trans.*, Oct. 30, '62.)

*Furniture* finished, with the exception of oiling, waxing, painting, or varnishing, on which the duty has been paid, is not subject to additional taxation in consequence of such oiling, waxing, or varnishing. The mere addition of a marble slab to tables, or other furniture, is not construed as the production of a new manufacture, provided the taxes on the material have been paid.

So, when all the different parts of a piece of furniture are got out, shaped, and finished, ready to be put together, and the tax is paid on the piece of furniture as a whole, the putting together of the different parts will not be considered a manufacture. (*Id.*, Decis. No. 55.)

*Makers of heaters* for fireplaces are manufacturers, and must pay duty on the full value of the manufactured article. (*Id.*, *N. Y. Trans.*, Nov. 14, '62.)

*Mattresses* are a manufacture, and liable to taxation as such. (*Id.*, Decis. No. 55.)

*Shooks* (considered as hogsheads), barrels, or similar packages, taken to pieces for greater convenience in packing, are subject to three per cent ad valorem duty as a manufacture "not otherwise specified." (*Id.*, Decis. No. 60.)

*Syrups* (lemon, sarsaparilla, &c.) are to be considered as a manufacture, and to be taxed three per cent, ad valorem. (*Id.*, *N. Y. Trans.*, Oct. 27, '62.)

*Soft soap* is a manufacture "not otherwise provided for," dutiable at three per cent, ad valorem. (*Id.*, *N. Y. Trans.*, Nov. 14, '62.)

*An upholsterer*, who buys sofa and chair frames, and adds the upholstering work, must pay the tax on the value of the finished article. (*Id.*, *N. Y. Trans.*, Nov. 14, '62.)

For further applications of this rule, consult the names of different manufactures or mechanics, in their order.

### ARTICLE 3.—PAYMENT OF THE DUTY.

#### § 1. *When paid—Monthly Returns.*

The duty is to be paid monthly, beginning October 1, 1862, on all the articles sold or delivered for the month preceding, an account of which is contained in the monthly return (§ 69). The sale or delivery here mentioned is to others than the manufacturer's agent.

*Returns* are required to be made each month, by manufacturers, to the assistant assessor of the district, of the products and sales or delivery of their manufactures (§ 68). The value and quantity of the articles required to be stated in the monthly return are to be estimated by the actual sales made by the manufacturer or his agents; and where the articles have been removed (before the act took effect) for consumption or for delivery to others, or placed on shipboard, or are no longer in the custody and control of the manufacturer or his agent, the value is to be estimated by the average of the market value of like goods during the time when the same would have become liable to the duty. (§ 74; last proviso of § 75.)

The return must give the *whole* amount of manufactures and sales, though the duty is assessed only upon goods actually sold.

Assessors and their assistants, collectors and their deputies, have authority to administer the oaths required of parties in making their monthly returns. (*Act of Dec. 25, '62, p. 299, infra.*)

It is provided, on page 5 of Instructions, series 1, No. 2, that the monthly lists containing the monthly returns of manufacturers and others shall be made out on or before the twentieth day of each month. It was expected, when these instructions were issued, that the annual lists would have been completed by that time; but if it is found that the monthly assessment of manufacturers and others can be returned to the collector and to this office before the annual list, that course should be adopted. (Com'r Boutw., *N. Y. Trans.*, Nov. 8, '62.)

*Estimated value.*—If a person continues to manufacture without complying with the requirements of the law, the assistant assessor may assume and estimate the amount and value of the manufactures, and upon such assumed amount assess and collect the duties and penalties. (§ 72.)

*Lien.*—The duties are a lien upon the goods from the day prescribed for their payment.

Under the English statute it is held that a wharfinger's general lien on the goods of his customer in his possession for his balance, in respect to freight and wharfage, must prevail against the crown. (*Rex v. Humphrey, McClell. & Y. 173.*) Whether a lien for warehouse room stands on the same footing—*query?* (*Ib.*)

*Any removal* of goods from the place of manufacture and the *store-rooms* connected therewith, if effected before September 1,

1862, will exempt such goods from duty; but if removed afterwards, they are liable at the time of removal, unless removed to manufacturer's agent. (Com'r Boutw., *N. Y. Trans.*, Oct. 31, '62.) Where a manufacturer has goods on hand at the place of manufacture, but has not taken out a license, nor kept his factory in operation since September 1st, such goods are subject to duty whenever sold or removed from the place of manufacture. (*Id.*, Decis. No. 1.)

The last paragraph of section 75 provides, that whenever, by the provisions of this act, a duty is imposed upon any article removed for consumption or sale, it shall apply only to such articles as are manufactured on or after August 1, 1862, and to such as are manufactured and not removed from the place of manufacture prior to that date. The solicitor of the treasury, to whom the question was referred by the secretary of the treasury, replies that, by "the place of manufacture," must be understood the premises where the manufacture is carried on, together with the ordinary store-rooms therewith connected and used for the storage of goods produced at the manufactory; and that any removal of goods therefrom before the 1st of September, which was intended, and will clearly serve, to distinguish such goods from those afterwards produced, must be held as exempting them from duty.

### § 2. *Where Paid.*

*At the factory.*—In general, goods, wares and merchandise are to be assessed in the district where they are produced or manufactured. (Com'r Boutw., *N. Y. Trans.*, Oct. 30, '62.)

Whenever, previous to September 1, 1862, goods, wares, or merchandise may have been made by persons who were not the owners of the materials, the premises where made must be regarded the place of manufacture. (*Id.*, Decis. No. 49.)

*At other places,* where the manufacturer himself has a store to which his goods are removed for sale, such removal may be made without the previous payment of duty, and a monthly return of sales may be made, as if the goods were sold at the place of manufacture. (*Id.*, *N. Y. Trans.*, Dec. 6, '62.) If the selling-house is really the property of the manufacturer, the goods may be removed to the sales-room and the tax paid when sold. In such case (a manufacturer selling his own goods at his own warehouse in another district) he must account to the collector of his own district. (*Id.*, Decis. No. 4.)

The commissioner has decided that, whenever a manufacturer uses, or removes for consumption or use, any articles, goods, wares or merchandise, which, if removed for sale, would be liable to taxation as manufactures, he must be assessed on the salable value of the articles so used, or so removed for consumption or use. It is not necessary, in order to render a manufacturer liable to taxation under this decision, that the articles so removed for consumption or use should be removed from the premises, or even from the building in which they were made. (*N. Y. Trans.*, March 4, '63.)

In estimating the duties upon manufactures when removed and sold at any other place than the place of manufacture, there is to be deducted from the gross amount of sales the freight, commission, and expenses of sale actually paid, and the duty is assessed upon the net amount after such deductions (§ 75). This proviso applies only to cases where goods are removed to be sold by a commission merchant, as an estimate of the duties is not required in the case of actual sales. (Com'r Boutw., *N. Y. Trans.*, Dec. 6, '62.)

The commissioner has decided that in estimating the duties upon articles manufactured, when removed and sold at any other place than the place of manufacture, there shall be deducted from the gross amount of such sales the following items: Freight from the place of manufacture, storage, insurances, and commissions actually paid when the articles are sold by the manufacturer; allowances to be made for the expenses of sale not exceeding the usual commission upon the same, or similar articles, at the place of sale. (Com'r Boutw., Decis. No. 69.)

#### ARTICLE 4.—PENALTIES, AND PROCEEDINGS TO COLLECT UNPAID TAXES.

The duties are to be paid monthly; and, if not paid within ten days after demand, either personal or written, the amount may be levied upon the real and personal property of the manufacturer. The duties then, together with the expenses of the levy, become a lien, from the day the taxes were due, upon the real and personal property, and the lien may be enforced by distraint, as provided by the general provisions (§ 69). See *THE ASSESSMENT*, Book I., p. 13.

For the commissioner's instructions as to prosecutions, see Appendix V., p. 301.

For neglect or refusal to pay the duties on manufactured goods, the goods are forfeited, and may be sold.

If the goods, at the time of taking possession, are upon the premises where manufactured, the parties in possession are to be deemed the manufacturers; and if the goods at such time shall have been removed from the place of manufacture, the parties interested are to be deemed the persons having the custody or possession of the same. The collector or assistant collector may take possession of the goods, wherever found, and give a notice of not less than two, nor more than ten, days, to the party in possession, enjoining him to appear before the assessor or assistant assessor at a certain day and hour, to show cause why such articles should not be declared forfeited to the United States. The summons may be served personally, or by leaving a copy at the party's residence or place of business. If no such party or place can be found, which fact is to be determined by the collector's return on the summons, the summons is to be advertised for three weeks, in one newspaper in the county, nearest to the place of sale. (§ 70.)

The duties not being paid at or before the hearing, the assessor or assistant assessor adjudges the summons, service, return, &c., sufficient, and the articles are declared forfeited, and sold. *Perishable articles* may be sold before declaration of forfeiture. (§ 70.)

*The sale* must be made at public auction, and a notice of not less than two, nor more than ten, days must be given thereof. The surplus of the proceeds of the sale is refunded to the manufacturer, or the person having the custody of the goods when seized. (§ 70.)

Immediate return of seizures so forfeited must be made to the commissioner by the collector or deputy who makes the seizure. (§ 70.)

*Appeals to the commissioner.*—The commissioner, with the approval of the secretary of the treasury, may review any case of forfeiture, and do justice in the premises. If the forfeiture has been wrongly declared, and sale made, the secretary of the treasury is authorized, in case the specific article can not be restored in good order, to make up the party's loss in money. (§ 70.)

Although a mere intention to evade the payment of duties is not, in itself, a cause of forfeiture, yet, when a question arises



The commissioner has decided that, whenever a manufacturer uses, or removes for consumption or use, any articles, goods, wares or merchandise, which, if removed for sale, would be liable to taxation as manufactures, he must be assessed on the salable value of the articles so used, or so removed for consumption or use. It is not necessary, in order to render a manufacturer liable to taxation under this decision, that the articles so removed for consumption or use should be removed from the premises, or even from the building in which they were made. (*N. Y. Trans.*, March 4, '63.)

In estimating the duties upon manufactures when removed and sold at any other place than the place of manufacture, there is to be deducted from the gross amount of sales the freight, commission, and expenses of sale actually paid, and the duty is assessed upon the net amount after such deductions (§ 75). This proviso applies only to cases where goods are removed to be sold by a commission merchant, as an estimate of the duties is not required in the case of actual sales. (Com'r Boutw., *N. Y. Trans.*, Dec. 6, '62.)

The commissioner has decided that in estimating the duties upon articles manufactured, when removed and sold at any other place than the place of manufacture, there shall be deducted from the gross amount of such sales the following items: Freight from the place of manufacture, storage, insurances, and commissions actually paid when the articles are sold by the manufacturer; allowances to be made for the expenses of sale not exceeding the usual commission upon the same, or similar articles, at the place of sale. (Com'r Boutw., Decis. No. 69.)

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The duties not being paid at or before the hearing, the assessor or assistant assessor adjudges the summons, service, return, &c., sufficient, and the articles are declared forfeited, and sold. *Perishable articles* may be sold before declaration of forfeiture. (§ 70.)

*The sale* must be made at public auction, and a notice of not less than two, nor more than ten, days must be given thereof. The surplus of the proceeds of the sale is refunded to the manufacturer, or the person having the custody of the goods when seized. (§ 70.)

Immediate return of seizures so forfeited must be made to the commissioner by the collector or deputy who makes the seizure. (§ 70.)

*Appeals to the commissioner.*—The commissioner, with the approval of the secretary of the treasury, may review any case of forfeiture, and do justice in the premises. If the forfeiture has been wrongly declared, and sale made, the secretary of the treasury is authorized, in case the specific article can not be restored in good order, to make up the party's loss in money. (§ 70.)

Although a mere intention to evade the payment of duties is not, in itself, a cause of forfeiture, yet, when a question arises

whether an act has been committed which draws after it that consequence, such intention will justify the court in not putting on the conduct of the party, in respect to the act in question, an interpretation as favorable as, under other circumstances, it would be disposed to do. (The Robt. Edwards, 6 Wheat. 187.)

### MAPS.

See CHARTS AND MAPS, *supra*.

### MARBLE.

Marble is not to be deemed a manufacture, taxable as such. (§ 75, last clause; Com'r Boutw., *N. Y. Trans.*, Oct. 30, '62.)

It is marble in the rough as quarried, before cut into shafts or slabs, that is exempt. Marble monuments, table-tops, mantles, and other articles which are recognized as subjects of traffic, are manufactures, and liable to three per cent ad valorem duty. And producers of such articles require manufacturers' licenses. (Com'r Boutw., *N. Y. Trans.*, Oct. 30, '62.) But workers in marble which is not dutiable require dealers' license.

The commissioner has decided that gravestones and monuments made to order from the rough material, from plans or designs, are not manufactures under the law, and, as such, are exempt from taxation; *provided* that no monument or gravestone shall be considered as made to order which is wrought further than the block or slab before the order for it is given. (Com'r Boutw., Decis. No. 56.)

See BUILDING STONE, *supra*.)

### MARINE ENGINES.

[Duty, three per cent, ad valorem.]

The duty on marine engines of all descriptions is three per cent, ad valorem. (§ 75, as amended, p. 260.)

This does not include all varieties of steam-engines or locomotives.

Steam-engines in general are to be regarded as manufactures, and dutiable at three per cent, ad valorem; though, when the materials out of which they are made have already paid internal or import duties, or are exempt, and the increased

value of the engine, when finished, is not over five per cent, ad valorem, there is no duty. (*Act of March 3, '63, § 29, p. 263.*)

In assessing a steamboat or vessel, the engine is not to be included in its valuation, where that article has paid the tax imposed upon it.

See SHIPS AND VESSELS, *infra*.

#### MEATS (Preserved).

See PRESERVES, *infra*.

#### MECHANICS.

Mechanics are to be deemed *manufacturers*, so far as they produce articles generally known and salable as articles of traffic. A stair, blind, or door builder is, doubtless, a manufacturer. So, coopers are manufacturers.

Commissioner Boutwell decides that mechanics, such as painters, plumbers, masons, and carpenters, who charge a profit on the amount of material used in the regular course of trade, are liable to a retail dealer's license when their annual business exceeds \$1,000. It is to be observed that *labor* is not subject to any tax.

Repairs by mechanics, job work, &c., are not subjects of taxation.

A mechanic, producing articles exempted from taxation as manufactures, must take out a dealer's license.

See MANUFACTURERS, and MANUFACTURES IN GENERAL, *supra*.

#### MILK AND MILKMEN.

*Concentrated milk* is not to be regarded as a manufacture subject to any duty. (§ 75, last clause.)

*The milk of farmers' cows* is considered as among the products of his farm, and no license is required for the sale thereof. But a person other than a farmer who keeps cows, and makes the sale of milk an occupation, is not embraced in this ruling, and is required to take a license. (Com'r Boutw., *N. Y. Trans.*, Dec. 18, '62.)

*Dairymen*, or persons whose chief business is to keep cows for the purpose of selling their milk, and making butter and cheese, require, under the commissioner's decision, licenses as dealers.

*Milkmen*, who carry about milk previously sold, and collecting their bills by the month or season, do not require a peddler's license.

See DEALERS, *supra*. PEDDLERS, *infra*.

#### MILLERS.

Flour or meal made from grain is declared not to be a manufacture, and is therefore exempt. (§ 75, last clause.)

Under the decision of the commissioner, however, a producer of these exempted articles requires a license as a dealer.

See DEALER, *supra*.

#### MILLINERS.

Milliners are manufacturers, and, if their business exceeds \$1,000 a year, must take out a license as such—\$10.

*The articles manufactured* by milliners for men's, women's, or children's wear, to order, as *custom work*, and not for sale generally, are, to the amount of \$1,000, exempt from duty; and, for any excess beyond that amount, the duty is only one per cent, ad valorem. (§ 75, as amended.)

Where it is the custom of the trade, to sell manufactured hats or bonnets without trimming, persons whose business it is to trim hats and bonnets will not be regarded as manufacturers. (Com'r Boutw., Decis. No. 50.)

But where the frame merely of a bonnet is purchased, the making of the finished bonnet is a new manufacture, and is subject to the three per cent duty. See Appendix V., Decisions Nos. 83, 87, p. 308, *infra*.

#### MINERAL WATERS.

[Duty, from one to two cents per bottle.]

On mineral or medicinal waters, or waters from springs impregnated with minerals, the duty per quart bottle is 1 cent; and 2 cents per bottle containing more than one quart. (§ 75, as amended, p. 262.)

#### MOROCCO SKINS.

See LEATHER, *supra*.

#### MUSTARD (Ground), AND MUSTARD-SEED OIL.

[Duty, one cent per pound; on oil, two cents per gallon.]

On ground mustard and all imitations the duty is 1 cent

per pound (§ 75); to be paid monthly, on amount ground and sold.

The duty on mustard-seed oil is 2 cents per gallon. (§ 75.)

See OILS, *infra*.

#### NAILS AND SPIKES (Cut).

[Duty, \$2 per ton.]

The duty on cut nails and spikes is \$2.00 per ton of 2,240 pounds; but where the duty of \$1.50 per ton on the iron from which the nails and spikes are made has been previously paid, the duty is but 50 cents per ton in addition thereto. (§ 75.)

See IRON, *supra*.

#### NAPHTHA.

Naptha and benzoin are manufactures liable to the three per cent ad valorem duty. (Com'r Boutw., *N. Y. Trib.*, Dec., '62.)

#### NEWSPAPERS (Advertisements).

Newspapers, with books, magazines, pamphlets, and other similar publications, are declared not to be manufactures, subject to duty as such. (§ 75, last clause.)

*Publishers* of newspapers, books, &c., require a dealer's license to sell papers on the premises. Subscriptions received at the office, and the delivery of papers by mail, or otherwise, is regarded as a sale upon the premises. (Com'r Boutw., Decis. No. 41.) If the sales of a publisher amount to twenty-five thousand dollars a year, he should be classed as a *wholesale* dealer.

*No license* is required of a publisher who disposes of his papers exclusively through a commission house. (*Ib.*)

The only tax on newspapers and other *periodical* publications is the tax upon

#### ADVERTISEMENTS.

1. *The duty*.—Publishers "of newspapers, magazines, re-

views, or other literary, scientific, or news publications, issued periodically," pay a duty of three per cent "on the gross receipts for all advertisements, or all matters for the insertion of which," in the publication itself, "or in extras, supplements, sheets, or fly-leaves accompanying it, pay is required or received."

The duty may be added to the price of the advertisements, notwithstanding any law, State or Federal, fixing the rate of advertising.

Receipts to the amount of \$1,000 are exempt. The duty is due each quarter on the excess over \$1,000. (§ 88.)

*Circulation.*—Newspapers whose circulation does not exceed 2,000 copies are exempted from all taxes for advertisements. (*Ib.*)

If weekly, tri-weekly, and daily newspapers are published in one office by the same parties, and are composed principally of the same matter, though the matter in them may differ to some extent, there can be no doubt that they are to be regarded as one paper, and are liable to taxation, if their combined circulation exceeds 2,000 copies. (Com'r Boutw., Decis. No. 25.)

2. *The duties are to be paid* quarterly, to the collector or deputy collector, at the time of rendering the return. This return is to be rendered quarterly, from September 1, 1862, to the assistant assessor of the district where the publication is issued, stating the gross amount of receipts for advertising during the quarter, and the amount of duties which have accrued thereon. It must be sworn to as true and correct by the owner, publisher, or person having the management of the publication. (§ 88.)

3. *In case of a neglect or refusal* to make the return as required, within thirty days after the same is due or ought to have been made, the assistant assessor proceeds to estimate the duties as in other cases of delinquency. And in case of neglect to pay the duties for thirty days after they have become due, five per cent on the amount due is added, as a penalty. Every attempt at fraud or evasion is liable to a penalty of \$500; so for any sum fraudulently unaccounted for. The provisions of the act in relation to liens, assessments and collections, not incompatible, are declared applicable to this section. (§ 88.)

## OILS.

The following kinds of oil are subject to the duty annexed to each :

	Per Gallon.
Animal or vegetable oils, not exempted, or otherwise provided for, pure or adulterated . . . . .	2 cents.
Coal oil (refined illuminating), produced by distillation of coal exclusively . . . . .	8 “
Coal oil, by distillation of coal, &c., petroleum or rock oil . . . . .	10 “

See COAL OIL, *supra*.

Lard oil, pure or unadulterated . . . . .	2 “
Linseed oil, pure or unadulterated . . . . .	2 “
Mustard-seed oil, pure or unadulterated . . . . .	2 “

The following oils are exempted from all duty :

Fish oil.

Paraffine.

Red oil, or oleic acid, produced in the manufacture of candles, and used as a material in the manufacture of soap.

Whale oil.

*Lard oil, lubricating oil, and linseed oil.*—The manufacturers of these oils are subject to the provisions of the act relating to distillers of spirituous liquors, and designed for the purpose of ascertaining the quantity produced. (*Act of March 3, '63, § 32, p. 264, infra.*)

See DISTILLED SPIRITS, *supra*, and Decision 96, p. 313.

## OXYD OF ZINC.

See PAINTS, *infra*.

## PAINTS AND PAINTERS' COLORS.

	Per 100 Pounds.
The duty on white lead is . . . . .	25 cents.
“ on oxyd of zinc . . . . .	25 “
“ on sulphate of barytes . . . . .	10 “



When these duties have been paid, no additional tax is to be paid in consequence of the above articles being mixed or ground with linseed oil. But the duties upon all the materials so mixed or ground must have been paid.

With this limitation, all paints and painters' colors, dry or ground in oil, or in paste with water, are subject to a duty of five per cent, ad valorem. By the amendments, paints and painters' colors are not subject to any additional duty in consequence of being mixed or ground with linseed oil—the duties on the materials themselves having been paid. (§ 75, as amended, p. 260, *infra*.)

The duty on linseed oil is two cents per gallon.

The duty is to be paid, and returns rendered, monthly, as of a manufacture.

#### PAMPHLETS.

Pamphlets are not to be regarded as a manufacture. (§ 75, last clause.)

There is no duty on advertisements inserted in the fly-leaves of pamphlets, unless the same are issued "periodically."

See NEWSPAPERS, *supra*.

Publishers of pamphlets are liable to assessment as dealers. (Com'r Boutw., *N. Y. Trans.*, Dec. 8, '62.)

#### PAPER.

[Duty, three per cent, ad valorem.]

The duty on paper of all descriptions, including paste-board and binders' boards, is three per cent, ad valorem. (§ 75.)

Besides this, there is a duty of three per cent, ad valorem, on all manufactures, in whole or in part of paper, not otherwise provided for.

The manufactures of paper, "otherwise provided for," are printed books, magazines, pamphlets, newspapers, reviews, and all other similar publications, including maps and charts, which are exempt. (§ 75, last clause.)

Blank books being manufactures, by the decision of the commissioner they are not exempt.

Sandpaper is a manufacture, in part, of paper, and is liable to three per cent duty on its full value when sold. (Com'r Boutw., *N. Y. Trans.*, Nov. 15, '62.)

Paper-hangings, using as a foundation blank paper, made

*elsewhere*, and on which the duty has been paid, are a distinct manufacture, and must pay the duty on the full value when sold. (*Id.*, *N. Y. Trib.*, Oct. 18, '62.)

Paper is a manufacture, and returns must be made, and duties paid, as of a manufacture, monthly.

See MANUFACTURES IN GENERAL, *supra*.

### PARAFFINE.

Paraffine, a product of coal oil, from which candles are made, is exempt from duty. (§ 75.)

### PARASOLS.

[Duty, three per cent, ad valorem.]

Parasols and umbrellas, made of cotton, silk, or other material, are subject to a duty of three per cent, ad valorem (§ 75, as amended). Before the amendment, the duty was five per cent, ad valorem.

They are a manufacture, and returns must be made, and duties paid, monthly.

See MANUFACTURES IN GENERAL, *supra*.

### PASSPORTS.

[Duty, \$3 each.]

The duty on passports is \$3 each. This sum may be paid to any collector, whose receipt therefor must be forwarded, with the application for the passport, to the office of the secretary of state, or any agent appointed by him.

A like amount must also be paid for every passport issued by any foreign minister or consul of the United States, who are to account therefor to the treasury. (§ 87.)

### PATENT MEDICINES.

A stamp duty is imposed upon packages of patent medicines. For the provisions respecting this duty, the obligations and liabilities of manufacturers of articles enumerated in Schedule C, see Book IV., STAMP DUTY, p. 211, *post*.

### PAWNBROKERS.

[License fee, \$50.]

Pawnbrokers must pay \$50 for a license.

*Defined.*—Every person whose business or occupation *is* to take or receive, by way of pledge, pawn, or exchange, *any* goods, wares, or merchandise, or any kind of personal property whatever, for the repayment or security of money lent thereon, is deemed a pawnbroker. (§ 64, subd. 7.)

This definition might embrace many who are never known as pawnbrokers. It is clear that the mere lending of money upon security does not constitute one a pawnbroker.

The persons sought to be reached by the statute are those generally known as pawnbrokers, and who hold out to the public, by sign or otherwise, that they do a pawnbroking business.

### PEDDLERS.

[License fee, from \$5 to \$50.]

#### 1. THE LICENSE.

Seven classes of peddlers are contemplated by the statute, as follows:

	<i>License</i>
1st class.—Persons traveling with more than two horses.	\$20
2d class.—Persons traveling with two horses.....	15
3d class.—Persons traveling with one horse.....	10
4th class.—Persons traveling on foot.....	5
5th class.—Any peddler of either of above classes selling by original packages.....	50
6th class.—Peddlers of jewelry.....	25
7th class.—Peddlers of newspapers, Bibles, or religious tracts, exempt. (§ 64, subd. 27.)	

*The license* of a peddler must state whether the licensee is authorized to travel on foot, or with one, two, or more horses; but it need not state, as in other licenses, any place at which the business is to be carried on,—the nature of the occupation not allowing of any fixed place of business. (§ 60.)

A peddler's license, therefore, is not local, and the peddler may travel under his license "through different parts of the country."

Nor is he limited, by his license, to one State, as in the case of jugglers, circuses, &c.

A person may require both a peddler's and a dealer's license. If he has a store from which he also sells, he requires a dealer's license.

The distinction between a dealer and a peddler, under the statute, is, that the former has a fixed place of business at which he can sell, and no other; and the latter sells only by traveling from place to place.

A dealer cannot travel without a peddler's license; nor can a peddler have a fixed place of business without an additional license.

See DEALERS, *supra*.

## 2. WHO ARE PEDDLERS IN GENERAL.

Any person, except persons selling newspapers, Bibles, or religious tracts, who sells, or offers to sell, at retail, goods or other commodities, traveling from place to place, in the street, through different parts of the country, is to be regarded a peddler (§ 64, subd. 27); that is, one who gains his livelihood traveling from place to place selling goods, or one whose occupation is to sell goods while traveling from place to place. (Com'r Boutw., *N. Y. Trans.*, Oct. 27, '62.)

A peddler is not allowed to sell to the amount of \$1,000 without a license; but must take out a license to sell, as a peddler, any amount. (Com'r Boutw., *N. Y. Trans.*, Oct. 30, '62.)

*Agricultural implements, &c.*—But manufacturers of agricultural tools and implements, garden seeds, stoves and hollow-ware, brooms, woodenware, and powder, delivering and selling at wholesale any of said articles, by themselves or their agents, at places other than the place of manufacture, are not required to take out any additional license. (§ 64, subd. 27.)

The commissioner has decided that whenever a manufacturer of agricultural implements authorizes an agent or agents to sell such implements at wholesale at places other than the place of manufacture, such agent or agents will not be required, as authority for such sales, to take licenses as dealers or peddlers. If, however, such agent or agents shall sell such implements at retail, licenses will be required as retail dealers or as peddlers.

*Buyer.*—A person who purchases produce on his own account, takes it to the city, and sells it there without store or office, requires a peddler's license. (Com'r Boutw., *N. Y. Trans.*, Nov. 8, '62.)

*Butchers*, having stalls in several places in a town or city where they sell meat, require peddlers' licenses. (Com'r Boutw., *N. Y. Trans.*, Oct. 30, '62.)

See *BUTCHERS*, *supra*.

*A farmer*, who sells the products of his own farm—*e. g.*, milk—by traveling from house to house, is not a peddler. (Decis. No. 23.)

But a person, other than a farmer, who keeps cows and makes the sale of milk an occupation, is not embraced in this ruling. (Com'r Boutw., *N. Y. Trans.*, Dec. 18, '62.)

*Dealers* in ice, who supply customers from carts and wagons, collecting their bills monthly, or at the end of the season, do not require a peddler's license for such carts and wagons, although occasional small sales of ice are made by such drivers. They do not travel from place to place for the purpose of *selling*, but to *deliver* what has previously been sold. The same rule applies to milk wagons, grocers' wagons, bakers' and butchers' carts, used to *deliver* what was previously purchased or contracted for. It does not apply to bread, meat, and fish carts, dealers in fruit or vegetables, owned or hired and run for the purpose of selling (peddling) their contents from house to house. (Com'r Boutw., Decis. No. 23.)

*Tree dealers*, who buy to sell again, if they peddle their trees, must take out licenses as peddlers, and also as dealers, if they have places of business. (Com'r Boutw., Decis. No. 33.)

*Manufacturer*.—Goods sold at the manufactory may be delivered by means of teams without peddlers' license. If, however, a manufacturer sends out loads of products to be sold from the wagons, a license must be taken for each team. (Com'r Boutw., *N. Y. Trans.*, Oct. 30, '62.)

*Itinerant vendors*, when deemed peddlers. See Decision No. 78, Appendix V., page 308.

#### PEPPER (Ground).

[Duty, one cent per pound.]

The duty on ground pepper, and all imitations of it, is one cent per pound (§ 75). Returns must be made, and duties paid, monthly.

#### PETROLEUM.

See *COAL AND ROCK ILLUMINATING OIL*, *supra*.

**PHOTOGRAPHERS.**

[License fee, from \$10 to \$25.]

Photographers are liable to license, according to their annual receipts, as follows :

Receipts not over \$500, license.....	\$10
Receipts over \$500, and under \$1,000.....	15
Receipts over \$1,000.....	25

*Defined.*—Any person making for sale photographs, ambrotypes, daguerreotypes, or pictures on glass, metal, or paper, by the action of light, are to be regarded photographers under the act. (§ 64, subd. 30.)

*The license not local.*—The commissioner has issued a regulation that photographers may be allowed to travel from place to place, under license as photographers. Each license in this case should state the place of residence of the photographer, and should specify that he is to travel. (Com'r Boutw., Decis. No. 23.)

Photographs, daguerreotypes, ambrotypes, &c., are clearly manufactures, subject to three per cent ad valorem duty. Returns are to be made, and the duty paid, monthly.

**PHYSICIANS, SURGEONS, AND DENTISTS.**

[License fee, \$10.]

Physicians, surgeons, and dentists pay \$10 for a license.

*Defined.*—“Every person (except apothecaries) whose business it is, for fee and reward, to prescribe remedies or perform surgical operations for the cure of any bodily disease or ailment, shall be deemed a physician, surgeon, or dentist, as the case may be, within the meaning of this act.” (§ 64, subd. 32.)

The professions of medicine, surgery, and dentistry are considered one for the purposes of this act. The license permits one to practice either or all of the three professions. A physician practicing as a surgeon or a dentist, does not require two licenses. (Com'r Boutw., *N. Y. Trans.*, Oct. 27, '62.)

Physicians who keep on hand medicines solely for the purpose of making up their own prescriptions for their own patients, do not require an apothecary's license. (§ 66.)

*The license is not local*, and physicians, surgeons, and dentists, having taken out one license, are not required to take out another in consequence of practicing beyond the district where licensed. (*Act of March 3, '63*, § 25, p. 245.)

**PIMENTO (Ground).**

[Duty, one cent per pound.]

The duty on ground pimento, and all imitations of it, ~~is~~ one cent per pound (§ 75). It is to be considered a manufacture, of which returns are to be made and the duties paid monthly.

**PICKLES.**

[Duty, five per cent, ad valorem.]

The duty on pickles and preserved fruits, &c., is five per cent, ad valorem. (§ 75.)

See PRESERVES, *supra*.

**PLASTER.**

Plaster, or gypsum, is not to be regarded a manufacture subject to any duty. (§ 75.)

Producers of plaster, or gypsum, doubtless, require license as dealers.

See DEALERS, *supra*.

**PINS.**

[Duty, five per cent, ad valorem.]

The duty on pins, solid head or other, is five per cent, ad valorem. (§ 75.)

Returns are to be made to assistant assessor of the district where factory is situated, and duty paid to collector, monthly.

**PLATE.****1. THE DUTY.**

The duty on gold and silver plate kept for use is as follows :

On gold plate, per ounce, troy.....	50 cents.
On silver " " ".....	3 "

The phrase, "any person or persons owning, possessing or keeping any carriage, yacht and billiard table," is to be interpreted as referring to three different classes of owners, viz., such as possess any carriage; and, as a second class, such as possess any yacht; and, as a third class, such as possess any billiard table. There is nothing in the wording of the law, referring to plate, that could lead to the inference that the tax

On it is to be made contingent upon the keeping of a carriage, yacht, or billiard table. (Com'r Boutw., Decis. No. 21.)

It is specially provided, however, that silver spoons or plate silver, to an amount not exceeding forty ounces troy, belonging to any one person, shall be exempt from duty. (§ 77.)

The phrase, "kept for use," employed in reference to silver plate, is construed to except silver plate or ware "kept for sale," and also that which is in possession of a family, or its members, as souvenirs or keepsakes.

The plate property taxable is that which has been purchased for the use of the family, or has been presented to the family, as a part of the household furniture, and as such is kept for use, whether for ornament or actual service. In the execution of the law, assessors are directed to allow owners of silverware to have the same weighed, and to make report thereof. (Com'r Boutw., Decis. No. 21.)

A convenient table has been prepared, by which avoirdupois ounces may be readily converted into troy ounces, and owners of plate may determine, by common avoirdupois scales, the weight in troy measure.

By an act of parliament, which we believe has been adopted in this country, a pound (16 ounces) avoirdupois contains 7,000 grains, and a pound (12 ounces) troy 5,760. In an ounce avoirdupois there are, therefore,  $437\frac{1}{2}$ , and in an ounce troy 480, grains; or an ounce avoirdupois is equal nearly to eleven-twelfths, or 0.9114583, of an ounce troy, and 40 ounces troy are equal to 44 (43.885) ounces avoirdupois, as follows:\*

Avoirdupois.		Tax on Silver Plate.
44 ounces are equal to.....	40 troy ounces.....	\$0.00
50.....	45.6.....	0.17
60.....	54.7.....	0.44
70.....	63.8.....	0.71
80.....	72.9.....	0.99
90.....	82.0.....	1.26
100.....	91.1.....	1.53
110.....	100.3.....	1.81
120.....	109.4.....	2.08
140.....	127.6.....	2.63
160.....	145.8.....	3.17
180.....	164.1.....	3.72
200.....	182.3.....	4.27
250.....	227.9.....	5.64

\* This table is taken from the *Boston Journal*.



Avoirdupois.		Tax on Silver Plate.
300 ounces are equal to.....	278.4 troy ounces.....	\$7.00
350.....	319.0.....	8.37
400.....	364.6.....	9.74
450.....	410.1.....	11.10
500.....	455.7.....	12.47
550.....	501.8.....	13.84
600.....	546.9.....	15.21
700.....	638.0.....	17.94
800.....	729.1.....	20.67
900.....	826.3.....	23.41
1000.....	911.5.....	26.14

Silver plate, weighing less than 44 ounces avoirdupois, is exempt.

On gold plate no limitation is made, but every troy ounce is taxed fifty cents; hence the tax on one ounce of avoirdupois of gold plate is forty-five and a half cents; on ten ounces avoirdupois, it is \$4.56; and on one hundred ounces it is \$45.57.

Plate owned by churches, and kept for communion service, is free from tax by the act of March 3, 1863, § 77, p. 267, *infra*.

## 2. PAYMENT OF THE DUTY.

The duty upon gold and silver plate, as upon carriages, yachts, and billiard tables kept for use, is to be paid yearly, at the time of rendering the annual statement to the assistant assessor, on or before the first Monday of May of each year.

An affidavit to the returns of plate, carriages, yachts, and billiard tables is not required by law or the regulations of the revenue office.

For the duty on silverware, as a manufacture, see SILVERWARE, *infra*.

## PORTER.

See BEER, *supra*.

## POTTERYWARE.

On all manufactures of potteryware, in whole or in part, the duty is three per cent, ad valorem (§ 75); returns to be made and duty paid monthly.

Manufacturers of potteryware, whose annual business exceeds \$1,000, require a manufacturer's license.

**PRESERVES AND PRESERVING CANS.**

[Duty, five per cent, ad valorem.]

The preserves mentioned in the act as subject to duty are Pickles, fruits, fish, shell-fish, and meats.

The duty on these articles is five per cent, ad valorem. (§ 75.)

The duty on preserved fish, shell-fish, and meats is leviable only when these articles are preserved "in cans or air-tight packages."

The duty on pickles and preserved fruits is leviable whether they are preserved in cans or otherwise.

The cans, to be dutiable, must be *permanently* air-tight. Thus, the commissioner has decided that oyster-cans, not air-tight nor fitted to preserve the contents beyond a brief period of time, are not subject to taxation. When, however, meats, fish, or shell-fish are packed in cans or other air-tight vessels, for the purpose and with the expectation of preserving such articles for considerable periods of time, they are subject to a tax of five per centum, ad valorem. Nor does such liability depend upon any previous preparation of the article for the purpose of aiding in their preservation. The exemption is due exclusively to the fact that the cans or other packages are not air-tight, and that the contents are not thereby preserved. In such case, it is the duty of the assessors to consider and decide these questions. (Com'r Boutw., *N. Y. Trans.*, Dec. 6, '62.)

The duty is payable at the time of rendering the monthly return to the assistant assessor of the district where the factory is situated.

**PRINTERS.**

Printing establishments where books, newspapers, pamphlets, magazines, &c., are produced, are classed by the commissioner under the head of Dealers. They are not liable to license as manufacturers. (Com'r Boutw., *Decis. No. 41.*)

See PUBLISHERS, *infra*.

The mere *printing* of cards, circulars, catalogues, &c., does not make the printer a manufacturer; but he is a dealer, and requires license as such. (*Id.*, *N. Y. Trans.*, Oct. 31, '62.)

Articles produced by job printers, lithographers, and engravers, which are made upon specified orders, not known as

articles of commerce, are exempt from duty as manufactures. Job printers, engravers, and lithographers, therefore, whose business is confined to the production of articles covered by the foregoing rule of exception, are not liable to assessment as manufacturers. (*Id.*, Decis. No. 42.)

It would seem to be the rule, then, that printers who produce books and the other publications specially exempted from taxation, or who do job work to order, are deemed dealers and not manufacturers. But if a printer produces any article dutiable as a manufacture—*e. g.*, lettered blank books, diaries, and the like—to the extent of \$1,000 a year, he must take out a manufacturer's license.

#### PRINTERS' INK.

Printers' ink is not to be regarded as a manufacture subject to any duty. (§ 75, last clause.)

Manufacturers of printers' ink are classed under dealers, and require a license as such. (Com'r Boutw., *N. Y. Trans.*, Oct. 30, '62.)

#### PRINTING AND DYEING CLOTHS.

Persons engaged in printing or dyeing cloths are required to take licenses as manufacturers.

Under the law as it now stands, the printer or dyer will be assessed only for the increased value of such cloths, whether the tax has been previously paid on the plain fabric or not. (Com'r Boutw., *N. Y. Trans.*, Oct. 29, '62.)

A dyer of old goods cannot, we think, be deemed a manufacturer. He, doubtless, requires a retail dealer's license.

#### PRINTED GOODS.

For the rate of duty on printed goods, how assessed, &c., see CLOTHS, *supra*.

#### PUBLISHERS.

Publishers of printed books, magazines, pamphlets, newspapers, reviews, and all other similar publications, are liable to assessment as dealers. (Com'r Boutw., Decis. No. 41.) If the sales of a publisher are to the amount of \$25,000 a year, he should be classed as a wholesale dealer; if under that and over \$1,000 a year, he requires a retailer's license.

A person who both prints and publishes books, magazines,

c., requires but one license—that of a dealer. Whether wholesale or retail, must depend upon the amount of business done.

### RAILROADS.

[Duty, one and a half to three per cent on fares.]

The duties on railroad bonds and on dividends declared by railroad companies are stated respectively under BONDS (RAILROAD) and DIVIDENDS (RAILROAD), *supra*.

The only other duty to which railroads are subject is—

#### 1. THE DUTY ON FARES.

a. *When the cars are propelled by steam*, railroad companies pay three per cent on the gross amount of their receipts for the transportation of passengers over their road. (§ 80.)

It will be remarked that the duty is only on receipts for the transportation of *passengers*, not freight.

The percentage is to be paid by railroads on receipts from transportation of troops, as well as from any other class of passengers (Com'r Boutw., Decis. No. 26); and the secretary of war has decided that railroad companies have the right to add three per cent to their fares, notwithstanding the agreement with the department to charge but two cents per mile, thus increasing the fare to  $2\frac{3}{4}$  cents per mile.

b. *When not propelled by steam*.—Railroads using other than steam power thereon pay one and a half per cent of the gross amount of receipts for the transportation of passengers (§ 80). This applies to all horse railroads run in cities.

The duties imposed on railroads of either class may be added by the company to their rates of fare, any limitation which may exist by law, or by agreement with any person or company which may have paid or be liable to pay such fare, to the contrary notwithstanding. (§ 80.)

#### 2. PAYMENT OF THE DUTY.

The duty is to be paid to the collector or deputy collector monthly (to be assessed by the assistant assessor; see Form 4) and at the same time, or within five days of the end of the month, a return must be made to the assistant assessor of the district where the company's principal office is situated, stating the gross amount of the receipts for the transportation

passengers for the month next preceding. The return is to be verified by the agent or other proper officer of the company.

The returns of railroads, of their receipts for the transportation of passengers, should be made at their principal office or place of business. Where several roads are so united as to have but one office, the return may be made at that office, although some of the roads may be located, wholly or in part, within other collection districts. (Com'r Boutw., Decis. No. 26.)

*Penalties.*—In case of refusal or neglect to make the return within five days after the same is due, the assessor or assistant assessor must proceed to estimate the amount received, and the duties payable thereon; and in making such assessment, the books of the company are subject to the inspection of the officer, on his demand.

For neglect or refusal to pay the duties within five days after they become due, an addition of five per cent on the amount of the duties is assessed; and for any attempt to evade, knowingly, the payment of the duties, the penalty is \$1,000 for each attempt. (§ 80.)

The provisions of the act in relation to liens and collections by distraint, not incompatible, are declared to apply to this section.

### 3. MANUFACTURE OF CARS, &c.

Railroad companies frequently make their own cars and other rolling stock. The commissioner holds that railroad companies making cars and locomotives, to replace old stock or to increase their equipment, must pay a tax upon the whole value of such manufactures, if their annual products exceed \$600, even though the articles are manufactured for their own use. (Com'r Boutw., *N. Y. Trans.*, Dec. 5, '62.)

But by the amendatory act of March 3, 1863, it is provided that there shall be deducted from duties assessed upon railroad cars any duties which may have been paid upon car wheels. (§ 75, p. 260.) See Decision, p. 314, *infra*.

For duty on railroad iron and railroad chairs, see *IRON, supra*.

### RECTIFIERS OF SPIRITS.

[License fee, \$25 and upwards.]

A rectifier must pay for a license (§ 64, subd. 8)—

To rectify 500 barrels, or under, containing not more than 40 gallons each.....	\$25.00
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o rectify over 500 barrels, or fractional parts, for  
each additional 500 barrels..... \$25.00

A rectifier's application for license must state the number of barrels he designs to rectify; and the license, when granted, is to specify the quantity authorized to be rectified. (§ 60.)

The basis for calculating the amount of license duty that a rectifier of liquor is subject to, under the internal revenue law, is *the number of barrels* or casks, containing not more than 40 gallons each, produced by the process of rectification; and not on the quantity of proof-liquor used. Rectifiers will keep a record of the quantity of liquor produced, and will be required to make a monthly return of the same to the assistant assessor, subscribed and sworn, and to pay the amount of license tax accrued thereon, when required by the collector. (Com'r Boutw., Decis. No. 15.)

*Defined.*—"Every person who rectifies, purifies, or refines spirituous liquors or wines by any process, or mixes distilled spirits, whisky, brandy, gin, or wine with any other materials, for sale, under the name of whisky, rum, brandy, gin, wine, or any other name or names, shall be regarded as a rectifier under this act." (§ 64, subd. 8.)

A manufacturer of cordials is embraced in the definition of subdivision 8, section 64, and requires a rectifier's license. (Com'r Boutw., *N. Y. Trans.*, Oct. 27, '62.)

So, doubtless, the manufacture of any mixture, for sale, of which spirits form a part, requires the license. But the distinction should be made between such articles made by persons other than apothecaries or physicians, who prepare them strictly for medicinal uses. For the provisions of the act of March 3, as to manufacturers of cordials, &c., upon which stamps are required, consult Book IV., THE STAMP DUTY, *post*.

A rectifier's license does not authorize the selling of liquors, and rectifiers are required to take out a liquor-dealer's license in all cases where they sell their liquors. (Com'r Boutw., *N. Y. Trans.*, Nov. 8, '62.)

## REFINERS OF SUGAR.

See SUGAR REFINERS, *infra*.

**REPAIRS.**

There is no tax on repairs done upon machinery, old carriages, &c. (Com'r Boutw., *N. Y. Trans.*, Oct. 30, '62; *Id.*, Oct. 27, '62.)

Receipts by a mechanic for repairing are not to be included in estimating his annual receipts, to determine whether he requires a manufacturer's license. (*Id.*) Work involving the expenditure of much labor, and but little new material, or where a little new material is added to much old material, to preserve it, may be regarded as repairs. (*Id.*, Dec. 16, '62.)

**ROCK OIL.**

See COAL AND ROCK ILLUMINATING OIL, *supra*.

**ROMAN CEMENT.**

Roman cement is not to be regarded a manufacture subject to any duty. (§ 75, last clause.)

Producers of it are classed as dealers and require license as such.

**SAILS, TENTS, &c.**

[Duty, three per cent, ad valorem.]

A duty of three per cent is imposed on sails, tents, shades, awnings, and bags made of cotton, flax, or hemp, or part of either, or other materials. But it is provided that the sewing of sails, &c., where the material belongs to the employer, and has paid internal or import duty, is exempt from duty as a separate manufacture. (§ 75, p. 260.) See Decis. No. 102, p. 321, *infra*.

Upon the statute, before amendment, the commissioner rendered the following decisions, which are presumed to be still applicable:

Sails, when made upon order, and to suit a particular vessel, are not regarded as manufactures, within the meaning of the law, and they are consequently exempt from duty. (Com'r Boutw., Decis. No. 38.) But gangs of rigging, or parts of gangs, such as stays, guys, shrouds, or other such standing rigging as has a separate commercial name and value, are manufactures, and the manufacturer requires a manufacturer's license. (*Id.*, *N. Y. Trans.*, Dec. 16, '62.)

**SALERATUS.**

[Duty, five mills per pound.]

On saleratus and bicarbonate of soda the duty is five mills per pound. (§ 75.)

The duty is to be paid, and returns rendered, monthly.

**SALARY AND PAY OF PERSONS IN GOVERNMENT EMPLOY.**

[Duty, three per cent on amount.]

The salaries and pay of officers and persons in the service of the United States, from September 1, 1862, when exceeding \$600 per annum, are subject to a duty of three per cent on the excess over such \$600. This embraces all persons in the military, naval, or other employment of the United States, including senators and representatives and delegates in congress. (§ 86.)

*Paymasters* and disbursing officers under the Government, when making payments to officers and others, or settling their accounts, are required to deduct the duty of three per cent (§ 86). At the same time, the disbursing officer is required to make a certificate stating the name of the officer or person from whom such deduction was made, and the amount thereof, which is to be transmitted to the commissioner, and entered as a part of the internal duties. The pay roll, receipts, or account of officers or persons paying the duty, must exhibit the fact of such payment. (§ 86.)

The commissioner has decided that every person who makes payment for service or goods on account of the Government is a disbursing officer under the Government, being an officer either in the civil, military, or naval service, or in the employ thereof. This rule has recently been applied to a person who pays the employees of a post-office. (Com'r Boutw., *N. Y. Trib.*, Nov. 26, '62.)

*Pensioners* are not liable to the deduction of three per cent under section 86. They are not officers or persons in the service or employment of the United States. Hence, even though they may be in receipt of a pension exceeding \$600 per annum, no deduction will be made by the agent of the Government in paying such pension. (Com'r Boutw., *N. Y. Trans.*, Oct. 31, '62.)



**SALT.**

[Duty, four cents per hundred pounds.]

The duty on salt is four cents per 100 pounds. (§ 75.)

Returns are to be made by the manufacturer to the assistant assessor, and the duties are to be paid monthly.

Persons engaged in the business of grinding salt and rice are not manufacturers within the meaning of the law. (Com'r Boutw., *N. Y. Trans.*, Oct. 29, '62.) They are liable as dealers.

**SAVINGS BANKS.**

See **BANKS**; **DIVIDENDS**, *supra*.

**SCREWS (Wood).**

[Duty, one and a half cents per pound.]

The duty on screws, commonly called wood screws, is one and a half cents per pound. (§ 75.)

Returns are to be made, and duty paid, monthly.

**SHADES.**

See **SAILS**, *supra*.

**SHINGLES.**

Shingles are not to be deemed a manufacture subject to duty. (§ 75, last clause.)

Manufacturers of shingles are dealers, and require license as such.

See **LUMBER**, *supra*.

**SHIPS, VESSELS, AND STEAMERS.**

[License fee, \$25. Duty on value, two per cent, ad valorem.]

*The license.*—Steamers and vessels upon waters of the United States, on board of which passengers or travelers are provided with food or lodging, are required to take out a license of the fifth class of hotels, viz., \$25. (§ 64, subd. 11.)

For penalties, &c., see **HOTELS**, *supra*.

The license of steam and sailing packets must, in all cases, be taken out, and the tax paid, by the person or firm having

care or management of the steamer or vessel specified in the law, at the principal terminus or landing thereof, whether such person or firm be known as owner or agent. (Com'r Boutw., Decis. No. 24.)

*Lighters* and steam tow-boats are not subject to any license, or duty, under the act.

*Dealers.*—The owners of vessels and barges from which produce is sold, are required to take out licenses as wholesale or retail dealers for each boat. Agents of commercial lines and transportation companies, if they transact business for owners of vessels or consignors of freight, must take out licenses as commercial brokers. Persons selling on commission for retailers, if their sales amount to \$1,000 a year, are to be licensed as dealers. (Com'r Boutw., *N. Y. Trans.*, Dec. 5, '62.)

*Ship building.*—On all ships, barques, brigs, schooners, sloops, sail-boats, steamboats (not including the engine), canal boats, and all other vessels or water craft, built after March 3, 1863, a duty is imposed of two per cent, ad valorem.

See Decision in Appendix V., p. 308, *post*.

Several of the articles of which the vessel is composed are considered as manufactures, and will be subject to duty. Nails, copper, cordage, &c., will pay duty as manufactures, when removed from the place of manufacture. If produced by the builder of the ship, he is to be treated as a manufacturer of such nails, &c., and to be taxed upon the product. Boats propelled by oars are regarded as manufactures. There may be vessels that would not be included in either of the specified classes, whose classification cannot be anticipated, and which must be assigned to one class or the other, according to the facts. (Com'r Boutw., Decis. No. 22.) By the late amendments, however, a manufacture produced of materials already taxed, or exempt, is not subject to duty unless its *increased value* is five per cent, ad valorem.

For duty on fares of passengers, see STEAMBOATS, *infra*.

See, also, MANUFACTURES IN GENERAL; MARINE ENGINES.

#### SPINDLES.

By the amendatory act of March 3, 1863 (§ 29, p. 263), spindles are exempted from taxation.

#### SILK.

All manufactures, in whole or in part of silk, not other-

wise provided for, are subject to duty at three per cent, ad valorem. (§ 75.)

Parasols and umbrellas, made of silk in whole or in part, are, under the statute as amended, dutiable at three per cent, ad valorem, and not at five per cent, as before.

The returns are to be made, and duty paid, as of a manufacture, monthly.

### SILVER AND SILVERWARE.

All manufactures of silver, in whole or in part, not otherwise provided for, are subject to a duty of three per cent, ad valorem. (§ 75.)

Silver bullion, rolled or prepared for platers' use exclusively, is exempt from duty. (*Act of March 3, '63*, § 29, p. 263.)

It is specially provided that bullion, in the manufacture of silverware, shall be exempt. Hence, silverware is to be assessed on its value over the value of the bullion used in its manufacture. (Com'r Boutw., *N. Y. Trans.*, Oct. 29, '62.)

*Foils.*—Gold and silver, as raw materials, are exempt from taxation. But gold and silver foils being manufactures of gold and silver (§ 75), and not being "bullion in the manufacture of silverware," are subject to the duty of three per cent, ad valorem. (Com'r Boutw., *N. Y. Trib.*, Nov. 20, '62.)

The duty is to be paid, and returns made, monthly.

The provisions respecting duty on gold and silver plate kept for use, will be found under *PLATE, supra*.

### SKINS.

The following varieties of skins are subject to the duties annexed to each respectively :

American patent calf skins.....	5 per cent, ad valorem.	
Goat skins, curried, manufactured or finished.....	4 per cent,	"
Hog skins, tanned and dressed.....	4 per cent,	"
Horse skins, tanned and dressed.....	4 per cent,	"
Kid skins, curried, manufactured or finished.....	4 per cent,	"
Morocco skins, curried, manufactured or finished.....	4 per cent,	"
Sheep skins, curried, manufactured or finished.....	4 per cent,	"

The value of skins is determined by the price at which such skins are usually sold. (§ 75.)

The duty is payable, either when tanned, curried or finished, and returns made, monthly.

See LEATHER, *supra*.

#### SLATE.

Slate is not to be regarded a manufacture, and is therefore exempt (§ 75, last clause). It is presumed that the regulation of the commissioner in regard to marble is applicable to slate, and that it is slate in the rough, as quarried, that is exempt from taxation. School slates, or slates prepared for roofing, &c., are doubtless to be regarded as new manufactures, and dutiable at three per cent. Producers of such articles are to be deemed manufacturers requiring a license.

See MARBLE, *supra*.

#### SLAUGHTERED CATTLE, HOGS, AND SHEEP.

##### 1. THE DUTY.

By the amendatory act of March 3, 1863, the duty on slaughtered cattle, hogs and sheep, is reduced. Under the act as it stood before amendment, the age of the animal regulated the rate of duty. The age is now partially disregarded, and the rates of duty are as follows:

*On all horned cattle* slaughtered for sale, the tax is twenty cents per head.

*On calves and cattle under eighteen months old*, the duty probably remains at five cents per head.

*On all hogs*, exceeding one hundred pounds in weight, slaughtered, six cents per head.

*On all sheep and lambs*, three cents per head.

It is specially provided that cattle, hogs, and sheep, slaughtered by a person for his own consumption, not exceeding six of each, are exempt from the duty. (§ 78, as amended.) See Decision No. 74, in Appendix V., p. 308.

##### 2. PAYMENT OF THE DUTY.

Persons whose occupation it is to slaughter, for sale, cattle, sheep, or hogs, are required to render a verified list monthly, to the assistant assessor of the district where the business is transacted, stating, severally, the number of cattle

hogs, and sheep slaughtered, with the several rates of duty, together with the whole amount, and pay the same to the collector.

*Penalty.*—For default in making the return or payment of the duties, the assessment and collection are to be made as in other cases of delinquency. For fraud or evasion in the return or payment of the tax, the penalty is \$10 per head upon which the duty is fraudulently withheld. (§ 79.)

### SNUFF.

See TOBACCO, *infra*.

### SOAP.

[Duty, one mill to two cents per pound.]

Soap is subject to specific duty, as follows:

	Per Pound
Castile, valued not above $3\frac{1}{2}$ cents per pound.....	1 mill
Castile, valued above $3\frac{1}{2}$ cents per pound.....	5 mills
Cream soap.....	2 cent
Erasive, valued not above $3\frac{1}{2}$ cents per pound.....	1 mill
Erasive, valued above $3\frac{1}{2}$ cents per pound.....	5 mills
Fancy.....	2 cent
Honey.....	2 "
Palm oil, valued not above $3\frac{1}{2}$ cents per pound.....	1 mill
Palm oil, valued above $3\frac{1}{2}$ cents per pound.....	5 mills
Scented.....	2 cent
Shaving.....	2 "
Toilet, of all descriptions.....	2 "
Transparent.....	2 "
All other descriptions, white or colored, except soft soap and soap otherwise provided for, valued not above $3\frac{1}{2}$ cents per pound.....	1 mill.
Do., valued above $3\frac{1}{2}$ cents per pound.....	5 mills.

*Soft soap* is subject to a duty of three per cent, ad valorem, as a manufacture "not otherwise provided for." (Com'r Boutw., *N. Y. Trans.*, Nov. 14, '62.)

The duty on soap is to be paid monthly, on the amount manufactured and sold.

*Red oil*, or oleic acid, produced in the manufacture of can-

## SOAP-MAKERS—STALLIONS AND JACKS. 169

des, and used as a material in the manufacture of soap, is exempt.

### SOAP-MAKERS.

[License fee, \$10.]

Soap-makers pay \$10 for a license.

Any person who manufactures soap is a soap-maker, under the statute, and requires a license. (§ 64, subd. 25.)

See TALLOW-CHANDLER, *infra*.

### SODA (Bicarbonate of).

See SALERATUS, *supra*.

### SPICES.

[Duty, one cent per pound.]

The following spices are subject to a specific duty of one cent per pound:

Ground pepper, ground mustard, ground pimento, ground cloves, ground cassia, and ground ginger, and all imitations of the same (§ 75). The duty is upon the prepared or ground article exclusively, which, for the purposes of the law, is deemed a manufacture. The duty is therefore to be paid monthly on the amount ground and sold.

### SPIKES.

See IRON, *supra*.

### SPIRITS.

See DISTILLED SPIRITS, *supra*.

## STALLIONS AND JACKS.

[License fee for owners of, \$10.]

Every person who keeps a horse or a jackass for the use of mares, requiring or receiving pay therefor, is required to take out a license, which shall contain a brief description of the animal, its age, and place or places where used or to be used. And without a license, all accounts, notes, or demands, for the use of any such horse or jack, are invalid and of no force in any court of law or equity. (§ 64, subd. 36, as amended.)

**STARCH.**

[Duty, from one to four mills per pound.]

Starch is dutiable as follows :

	Per Pound
Starch made of corn.....	1½ mills.
Starch made of potatoes.....	1 mill.
Starch made of rice.....	4 mills.
Starch made of wheat.....	1½ "
Starch made of other material.....	4 "

Returns to be made monthly of amount made and sold, and duties to be paid at same time. (§ 75.)

**STATIONER.**

Where a stationer, in the manufacture of blank books, furnishes the paper; sends it to the printer, who prints any heading that may be required and pages it; and thence to the binder, who finishes and returns the same complete to the stationer, for sale, he is a manufacturer.

Each of the above branches of the business is a specialty. (Com'r Boutw., *N. Y. Trans.*, Dec. 12, '62.)

**STAVES.**

Staves are not to be considered a manufacture subject to any duty. (§ 75.)

See COOPERS' STUFF, *supra*.

**STEAMBOATS.**

[Duty, three per cent on gross receipts of fares.]

Steamers and vessels carrying passengers are subject to a license.

For the provisions relating to license, see HOTELS, *supra*.

Steamboats are also dutiable at two per cent, ad valorem, as manufactures. See SHIPS AND VESSELS, *supra*.

Besides this, there is a duty on steamboats (not sailing vessels), on gross receipts for transportation of passengers, which is here considered.

**1. THE DUTY.**

Steamboats and other vessels propelled by steam, except

ferry boats, pay a duty of three per cent on the gross amount of receipts for the transportation of passengers. (§ 80.)

The regulations of the department in relation to duty on railroads, for receipts from transportation of passengers, are applicable to the duty on steamboats; see, therefore, RAILROADS, *supra*; see, also, Appendix V., Decision No. 78, p. 308.

The duties imposed may be added by the owner or company to the rates of fare, any limitation existing by law, or by agreement with any person or company which may have paid or be liable to pay such fare, to the contrary notwithstanding. (§ 80.)

## 2. PAYMENT OF THE DUTY.

The duty is to be paid monthly; and, within five days of the end of each month, a return must be made to the assistant assessor of the district where the owner or company's principal office is situated, stating the gross amount of the receipts for the transportation of passengers for the month next preceding. The return is to be verified by the owner, agent, or a proper officer of the company. (§ 80.)

*In case of refusal* or neglect to make the return within five days after the same is due, the assessor or assistant assessor must proceed to estimate the amount received, and the duties payable thereon; and in making such assessment, the books of the owner or company are subject to the inspection of the officer, on his demand. For neglect or refusal to pay the duties within five days after they become due, an addition of five per cent on the amount of the duties is assessed; and for any attempt to evade, knowingly, the payment of the duties, the penalty is \$100. The provisions of this act in relation to liens and collections by distraint, not incompatible, are declared to apply to this section. (§ 80.)

## STEEL.

[Duty, from \$4 to \$10 per ton.]

The following specific duty is leviable upon steel:

	Per Ton.
Steel in ingots, bars, sheets, or wire, not less than $\frac{1}{4}$ inch thick, valued at 7 cents per pound, or less.	\$4.00



	Per Ton
Steel in ingots, bars, &c., valued above 7 cents and not above 11 cents per pound.....	\$8.00
Steel in ingots, bars, &c., valued above 11 cents per pound.....	10.00

Besides this, an ad valorem duty of three per cent is assessed on all manufactures of steel, in whole or in part, not otherwise provided for. (§ 75.)

#### STONE.

See BUILDING STONE; MARBLE; and MANUFACTURES IN GENERAL, *supra*.

#### STOVES.

[Duty, \$1.50 per ton.]

The duty on stoves and hollowware is \$1.50 per ton of 2,000 pounds; to be paid monthly, on amount made and sold. (§ 75.)

See IRON, *supra*.

#### SUGARS.

[Duty, from one and a half of one per cent, to two cents per pound.]

The classification of sugars indicated by the statute is into, *first*, unrefined sugars, or those produced directly from the cane; and, *second*, refined.

The specific duty imposed on unrefined sugars by the revenue act was one cent per pound. By an amendatory act (*U. S. Stat. at L.* 1862, 588, *ch.* 187, p. 298, *infra*) an additional tax of one cent per pound is imposed. The duty on unrefined sugars is therefore—

On brown, muscovado, or clarified, produced directly from the cane, other than those produced by the refiner, two cents per pound.

*Refined.*—Before the amendments, the duty on refined sugar, whether loaf, lump, granulated, or pulverized, was two mills per pound; as the statute now stands, sugar refiners must pay a duty of one and a half of one per cent on their gross sales.

*Exempt.*—Sugar manufactured from sorghum or imphee is exempt from all duty (§ 75). So sugar manufactured for the family of the producer. (*U. S. Stat. at L.* 1862, 588.) The additional tax of one cent per pound attached to sugar in the hands of the producer July 16, 1862.

The commissioner decides that sugar “produced from the

molasses which drips from the first refining process" is clearly "sugar refined or made from molasses," and is, therefore, subject to a duty of two mills per pound.

"Coffee" and "bastard" sugars, prepared by boiling our dark sugars to bring them out in a bright condition, are exempt from tax, as not being specifically enumerated in the law.

The assessors in New York have not received instructions different from the foregoing, and if refiners in that city are acting differently, they are doing so without authority. (Com'r Boutw., *N. Y. Trans.*, Dec. 5, '62.)

The duty is to be paid monthly, as of a manufacture, and returns of the amount made or refined and sold, with amount of duties which have accrued, must be rendered monthly, to the assistant assessor.

See MANUFACTURES IN GENERAL, *supra*.

#### SUGAR REFINERS.

[Duty, one and a half of one per cent, on sales.]

By the amendatory act of March 3, 1863 (§ 1, p. 258, *infra*), refiners of sugar are required to pay a duty of one and a half of one per cent on the gross amount of the sales of all the products of their manufactories.

*Defined.*—Every person is regarded a sugar refiner "whose business it is to advance the quality and value of sugar, by melting and recrystallization, or by liquoring, claying, or other washing process, or by any other chemical or mechanical means; or who shall advance the quality or value of molasses and concentrated molasses, melado, or concentrated melado, by boiling, or other process."

#### SURGEONS.

[License fee, \$10.]

A surgeon's license is identical with that of physicians and dentists, and one license authorizes the practice of the three professions.

See PHYSICIANS, *supra*.

#### TAILORS.

Tailors, among others, making clothing to order as custom work, and not for sale generally, are exempt from duty to the amount of \$1,000; and, for any excess beyond that amount, their goods are dutiable at one per cent, ad valorem. (§ 75, as amended.) See Decisions Nos. 83, 87, in Appendix V., p. 308.

For duty on clothing, see CLOTHING, *supra*.

**TALLOW.**

The commissioner decides that the rendering of tallow is not a manufacture; and, consequently, tallow is not subject to any tax. (Com'r Boutw., *N. Y. Trans.*, Nov. 11, '62.)

**TALLOW-CHANDLERS.**

[License fee, \$10.]

Tallow-chandlers and soap-makers pay for each license \$10.

Any person whose business it is to make or manufacture candles or soap is regarded a tallow-chandler and soap-maker under this act. (§ 64, subd. 25.)

The business of a tallow-chandler and soap-maker seems to be identical, so far as to require but one license for both.

A person whose sole business it is to render tallow, it would seem, does not require the license.

**THEATRES.**

[License fee, \$100.]

Theatres pay \$100 for each license.

*Defined.*—Every edifice erected for the purpose of dramatic or operatic representations, plays, or performances, and not including halls rented or used occasionally for concerts or theatrical representations, is regarded a theatre. (§ 64, subd. 17.)

See CIRCUSES and EXHIBITIONS, *supra*.

**THREAD.**

See CLOTH, *supra*.

**TIMBER.**

Boards, shingles, and all other lumber and timber; staves, hoops, headings, and timber only partially wrought and unfinished, for chairs, tubs, pails, snaths, lasts, shovel and fork handles, are exempt from duty. (§ 75.)

See LUMBER, *supra*.

**TIN.**

Manufactures of tin, in whole or in part, not otherwise specified, are dutiable at three per cent, ad valorem; the duty payable monthly. (§ 75.)

**TANNING AND CURRYING.**

See LEATHER, *supra*.

**TOBACCO AND SNUFF.**

[Duty, five to twenty cents per pound.]

The duty on manufactured tobacco of all kinds (including cavendish, plug, twist, and fine-cut, and *not* including snuff,

gare, and smoking tobacco, prepared with all the stems in, r made exclusively of stems) is fifteen cents per pound.

On smoking tobacco, with all the stems in, or made exclusively of stems, the duty is five cents per pound.

On snuff, manufactured of tobacco, or stems, or of any substitute for tobacco, ground dry or damp, the duty is twenty cents per pound.

This is the rate of duty imposed by the amendatory act of March 3, 1863. (See page 259, *infra*.)

When manufactured chewing or smoking tobacco is put up in packages of tin-foil, paper, or other wrapping material, for consumers, the cost of such material should first be deducted from the gross amount of the sales of such tobacco before the tax is levied. And in ascertaining the weight of tobacco sold, the *weight* of the wrappers should be deducted. (Com'r Boutw., Decis. No. 62.)

Cigar manufacturers, and manufacturers of any kind of tobacco, must pay tax on any amount they may manufacture. They are excepted, together with producers of liquors, from the \$500 limit in the seventy-third section of the excise law, which prescribes that all manufacturers who may manufacture a less amount than \$600 worth of goods per annum shall not be made to pay three per cent upon the amount they manufacture.

The duty is to be paid monthly, and returns made to assistant assessor, as of a manufacture.

The preparation of maccoboy plain or pulverized tobacco not regarded as a manufacture; but persons who prepare is article by picking, sifting, or scenting, or by other purposes, and sell the same, are regarded as manufacturers of snuff, and liable to taxation as such. (Com'r Boutw., Decision No. 76.)

The owner of the tobacco, rather than the person who performs the labor, is regarded as the manufacturer of snuff; and the tax, in such cases, should be paid by the owner, according to the principle laid down in Decision No. 46. (*Id.*, Decis. No. 62.) See MANUFACTURES IN GENERAL, chapter i.

For the rate of duty on cigars, see CIGARS, *supra*.

In regard to the removal of tobacco under bond for exportation, see REGULATION No. 95, p. 315, *infra*.

**TOBACCONISTS.**

[License fee, \$10.]

Tobacconists, whose sales exceed \$1,000 a year, pay \$10 for each license.

*Defined.*—Any person whose business it is to sell, at retail, cigars, snuff, or tobacco in any form, is to be regarded a tobacconist under the act.

It will be noted that this license authorizes the *sale* only of tobacco. One who manufactures cigars, snuff, smoking or chewing tobacco, requires a manufacturer's license—\$10.

If a tobacconist manufactures his own cigars and tobacco, and sells them on the premises where made, he does not require a tobacconist's license. But if he sells any kind of tobacco not made by himself, he requires either a tobacconist's or a dealer's license.

If he has a dealer's license, he can sell any kind of tobacco, manufactured by himself or not, and need not take out a tobacconist's license. (See *DEALERS, supra.*) But if his manufactures of cigars or tobacco amounts to \$1,000 in value per year, he must take out a license as a manufacturer.

Keepers of hotels, and, it would seem, of steamers and vessels carrying passengers, do not require a tobacconist's license. (§ 64, subd. 16.)

Eating-houses are exempted from liability to this license by the act of March 3, 1863.

For the duty on tobacco, see *TOBACCO* ; *CIGARS, supra.*

**TOLL-BRIDGES.**

[Duty, three per cent on gross receipts.]

**1. THE DUTY.**

A duty of three per cent is laid on the gross amount of the receipts of every description of toll-bridges for the transit of passengers, teams, freight, &c. (§ 80.)

The duties imposed may be added by the owner or company to their rates of fare, any limitation which may exist by law, or by agreement with any person or company which may have paid or be liable to pay such fare, to the contrary notwithstanding. (§ 80.)

## 2. PAYMENT OF THE DUTY.

The duty is to be paid monthly; and within five days of the end of each month a return must be made to the assistant assessor of the district where the owner or company's principal office is situated, stating the gross amount of the tolls for the transportation of passengers, freight, &c., for the month next preceding.

The return must be verified by the owner, agent, or a proper officer of the company.

The regulations of the department as to duties on receipts of railroads apply to receipts of toll-bridges.

See RAILROADS, *supra*.

*Penalties.*—In case of refusal or neglect to make the return within five days after the same is due, the assessor, or assistant assessor, must proceed to estimate the amount received and the duties payable thereon; and in making such assessment, the books of the owner or company are subject to the inspection of the officer, on his demand.

For neglect or refusal to pay the duties within five days after they become due, an addition of five per cent on the amount of the duty is assessed; and for any attempt to evade, knowingly, the payment of the duties, the penalty is \$1,000. (§ 80.)

The provisions of the act in relation to liens and collections by distraint, not incompatible, are declared to apply to this section. (§ 80.)

## UMBRELLAS.

[Duty, three per cent, ad valorem.]

The duty on umbrellas and parasols made of cotton, silk, or other material, is three per centum, ad valorem; to be paid monthly. (§ 75, as amended.)

## UMBRELLA STRETCHERS.

Umbrella stretchers are not to be regarded a manufacture subject to any duty. (§ 75, last clause.)

## VARNISH.

[Duty, five per cent, ad valorem.]

On varnish, made wholly or in part of gum copal, or other

gums or substances, a duty of five per centum, ad valorem imposed; to be paid monthly. (§ 75.)

#### WHALE OIL.

Whale oil is exempted from all taxation. (§ 75.)

#### WHITE LEAD.

See PAINTS, *supra*.

#### WILLOW.

All manufactures of willow, wholly or in part, not wise provided for, are subject to a duty of three per cent valorem. (§ 75.)

#### WINE.

[Duty, five cents per gallon.]

On wine, made of grapes, five cents per gallon is imposed; the duty to be paid monthly, on the amount made and sold. (§ 75.)

#### WOOD.

All manufactures of wood, wholly or in part, not wise provided for, are dutiable at three per cent, ad valorem. (§ 75.)

#### WOOL.

All manufactures of wool, wholly or in part, not otherwise provided for, are subject to three per cent ad valorem. (§ 75.)

#### WORSTED.

All manufactures of worsted, in whole or in part, not otherwise provided for, are dutiable at three per cent, ad valorem. (§ 75.)

#### YACHTS.

[Duty, from \$5 and upwards.]

Pleasure racing vessels, known as yachts, whether sailing or steam, are subject to the following rate of duty :

On vessels valued under \$600 .....	\$5.00
"          "      above \$600 and not above \$1,000 ..	10.00
For each additional \$1,000 in value .....	10.00

For construction of section 77, concerning the duty on carriages, billiard tables, plate, and yachts, see *CARRIAGES, supra*.

*The duty is to be paid* yearly, and returns to be rendered to the assistant assessor. The return need not be verified.

## ZINC.

The duty on all manufactures of zinc, in whole or in part, not otherwise provided for, is three per cent, ad valorem. (§ 75.)

## OXYD OF ZINC.

Oxyd of zinc is subject to a duty of 25 cents per 100 pounds.

See *PAINTS, supra*.



## BOOK III.—THE INCOME TAX.

## CHAPTER I. THE TAX.

## CHAPTER II. HOW AND UPON WHAT ESTIMATED.

- ARTICLE 1. Local and other taxes to be deducted.  
 2. Income from United States securities.  
 3. Tax payer may make oath as to amount of income.

## CHAPTER III. PAYMENT OF THE TAX.

- ARTICLE 1. When to be paid.  
 2. Returns to be rendered.

## CHAPTER IV. PROCEEDINGS ON DEFAULT IN PAYMENT.

## CHAPTER I.

## THE TAX.

Sections 89 to 93, inclusive, embrace the provisions relating to the income tax. All previous enactments on the subject are repealed. (§ 89.)

The operation of the present income tax is limited in its duration—it beginning January 1, 1862, and ceasing absolutely December 31, 1866. (§ 92.)

The rate of duty upon incomes is as follows :

On incomes under \$600..... *no duty*.  
 “ over \$600, and not over \$10,000..3 per cent.  
 “ “ \$10,000 (excepting \$600) ...5 per cent.

*Non-resident citizens*, who receive income derived from property in the United States, where such citizens are not in the Government employ, must pay 5 per cent duty thereon, with the same limitations as residents are entitled to. (§ 90.)

## CHAPTER II.

## HOW AND UPON WHAT ESTIMATED.

- ARTICLE 1. Local and other taxes to be deducted.  
 2. Income from United States securities.  
 3. Tax payer may make oath as to amount of income.

## ARTICLE 1.—LOCAL AND OTHER TAXES TO BE DEDUCTED.

The commissioner, in his instructions to the assessors,

cts that, in estimating the annual income of any person, following deductions are to be made from the aggregate income, and the tax assessed upon the remainder :

1. State and local taxes, assessed in the calendar year preceding the assessment, to wit, from the 1st of January to the 31st of December, inclusive, next preceding.
2. Salaries of officers, or payments to persons in the service of the United States, from which 3 per cent has been deducted by the paymaster or disbursing officer.
3. Interest or dividends on stock, capital, or deposits in any bank, trust company, or savings institution, insurance, bridge, express, telegraph, steamboat, ferry-boat, or railroad company or corporation, or on any bonds or other evidences of indebtedness thereof, on which duties have been already paid.
4. Receipts derived from advertisements upon which duties have been paid.
5. The rent actually paid for the dwelling-house or estate which is the residence of the person assessed.
6. The amount paid by any farmer or planter for hired labor and necessary repairs upon his farm or plantation, including the subsistence of the laborers.
7. Also the sum of \$600, except in those cases in which the whole or any part of said \$600 has been deducted from salaries of officers or persons in the employ of the United States.

*Incomes over \$10,000.*—Whenever the total income of any person exceeds \$10,000, and deductions are made therefrom upon the ground that a portion of such income has been subject to a 3 per cent duty upon dividends or interest paid by companies, corporations, or associations, as before enumerated, such person will be subject to a tax of 2 per cent additional upon so much of his income as may have been previously subjected to the 3 per cent duty before named. Guardians and trustees, whether such trustees are so by virtue of their office as executors, administrators, or other fiduciary capacity, are required to make a return of the income belonging to minor or other persons, which may be held in trust as aforesaid, and the income tax will be assessed upon the amount returned, after deducting such sums as are exempted from the income tax as aforesaid. The exemption of \$600, under section 90 of the excise law, is not, however, allowed on account of any minor or other beneficiary of a trust, except upon the state-

ment of the guardian or trustee, made under oath, that the minor or beneficiary has no other income from which that amount may be deducted.

*Persons receiving rent* may deduct therefrom the amount paid for necessary repairs, insurance, and interest on incumbrances upon the property rented. The cost of new structures or improvements to buildings cannot be deducted from the income.

*Income prior to Sept. 1, '62.*—The tax must be levied upon all dividends declared prior to September, 1862, and upon the entire salaries of officers or payments to persons in the civil, military, naval, or other service of the United States for services rendered prior to the said date, without allowing the \$600 off, as such dividends and proportions of salaries were not subject to deduction or assessment.

*Interest* received or due from trust companies, savings institutions, insurance, bridge, express, steamboat, ferry-boat, and railroad companies, corporations or associations, prior to the same date, must also be taxed.

Interest paid by the assessed person on incumbrances upon the dwelling-house or estate in which he resides may be deducted from income; also his payments for necessary repairs.

*Farm produce* which the producer has on hand on the 31st day of December, 1863, must be appraised at its marketable value on that day.

Every farmer or planter will be required to make returns of the value of the produce of his farm plantation without deduction for the labor or services of himself and family, or of any portion of such produce consumed by himself and family.

*Manufacturers' profits* are to be included in the income subject to duty, notwithstanding duties have already been paid on the articles manufactured, the exemption being removed by the act of March 3, 1863 (see § 91, p. 276). *Copartners* return their share, or interest, in the copartnership income. Corporators pay on the amount of profits, whether in the form of dividends or otherwise.

*Timber.*—The commissioner, in answer to inquiries, says that the fact that the law regards timber standing as part of the realty cannot be urged as a sufficient reason for exemption from taxation of the income received from the sale of such timber. For, although timber, while standing, forms a part of the realty,

it, when sawed or cut down, it becomes personal property, and the receipts of the owner from such sales go to increase his annual income, and, therefore, is just as much liable to the income tax as the income received from the sale of other products of the soil or mines. The farmer who keeps woodland for the express purpose of cutting and selling firewood, in greater or less quantities every year, would be requested to estimate his receipts from that source, as a part of his income, and the case is not different with the proprietor who sells to others the privilege of cutting and appropriating the timber on his land. The amount thus received for "stampage" must be treated as the income of the proprietor.

#### ARTICLE 2.—INCOME FROM UNITED STATES SECURITIES.

Such portion of annual incomes as is derived from interest upon United States securities of any kind is dutiable at one and one half of one per cent only. (§ 91.)

By an act of congress, entitled "An act to authorize the issue of United States notes," &c., passed February 25, 1862 (*U. S. Stat. at Large*, 1862, p. 345), all stocks, bonds, and other securities of the United States, held by individuals or corporations, are exempted from *State* taxation.

The U. S. Supreme Court has decided that a bank is not liable to State taxation in respect to *that portion* of its capital which consists of the securities of the Federal Government issued either before or after the exemption act of February 25, 1862; reversing *People v. Comm'rs of Taxes*, 23 N. Y. 92. But they are liable to a Federal taxation, under this act, of one and one half per cent on incomes from such securities.

#### ARTICLE 3.—TAX PAYER MAY MAKE OATH AS TO AMOUNT OF INCOME.

/ A party is permitted to swear as to the amount of his income liable to assessment, and the amount thus sworn to is received as the sum upon which the duties are to be assessed and collected.

*Oath of no income.*—It is specially provided that a party, in his own behalf or as guardian or trustee, may be permitted to declare, under oath or affirmation, that he is not possessed of an income of \$600 liable to assessment, or that he has been assessed elsewhere, the same year, for an income duty w

United States authority. He is then exempt (§ 93). Of course, this does not preclude the assistant assessor from investigating into the truth of such an affidavit.

### CHAPTER III.

#### PAYMENT OF THE TAX.

- ARTICLE 1. When to be paid.  
2. Returns to be rendered.

##### ARTICLE 1.—WHEN TO BE PAID.

The income duty is to be assessed and collected on the 1st day of May of each year, for the year ending December 31st next preceding (§ 91). The duty must be paid on or before the 30th day of June of each year; and when not paid for thirty days after that day, and for ten days after demand thereof by the collector, five per cent on the amount of unpaid duties is levied, in addition, as a penalty (§ 92) except in the case of estates of deceased and insolvent persons.

##### ARTICLE 2.—RETURNS TO BE RENDERED.

All persons must make returns of their yearly profits, or income, as the case may be, by the 1st of May of each year.

It does not seem that these returns need to be verified.

Where the income is received by guardians, or trustees, whether executors, administrators, or others acting in a fiduciary capacity, returns are to be rendered by them.

*Guardians and trustees*, including executors, administrators, and all others acting in a fiduciary capacity, are required to pay the tax for those in whose behalf they act. The commissioner holds that, although the law is silent, there is no reason why trustees may not divide the income arithmetically among the beneficiaries, and return to the assessor the amount held for each, in place of a separate return by each beneficiary for himself. (See Decision No. 88, p. 309, *infra*.)

The assistant assessor may increase the amount stated in the return, if satisfied that the same is understated (§ 93). The remedy of the tax payer is by appeal. See *APPEALS*, pp. 18, 23, *ante*. In case of neglect or refusal to make the return, the assessor, or assistant assessor, is to assess the amount, and proceed to collect the duty thereon, as provided for in the general provisions of the act. (§ 93.)

The commissioner directs that, whenever persons liable to assessment of income tax shall neglect or refuse to make the lists required by law, or when the lists made and tendered by such persons shall not be accepted by the assessor or assistant assessors as just and proper, it shall be the duty of such assessor or assistant assessor to make lists for such persons, according to the best information he can obtain. Persons so assessed may make oath or affirmation as to the amount of revenue and deduction therefrom, agreeably to section 93.

For the forms of affidavit to be made on the return, see Appendix, p. 322.

#### CHAPTER IV.

##### PROCEEDINGS ON DEFAULT IN PAYMENT.

The unpaid duties, with interest, penalties and costs, are a lien in favor of the United States upon all the property, stocks, securities and debts of every description from which the taxable income may have or should have accrued.

*In default of the payment* of the duty for thirty days after it becomes due and is demanded, the lien must be enforced by distraint upon the property subject to income duty, by whomsoever holden; and for this purpose, the commissioner of internal revenue, upon the certificate of the collector or deputy collector that the duty is unpaid for ten days after due notice of the levy, issues a warrant, by virtue of which a further sum, stated in the warrant, may be levied, sufficient for the fees and expenses of the levy.

*In cases of sale*, the collector's or deputy's certificate of sale gives the purchaser title to the property, whether real or personal. Where the subject of sale is stocks, the certificate of sale is declared lawful authority, and notice to the corporation to record the same on their books or records, in the same manner as if transferred or assigned by the party holding the same, and to issue new certificates of stock therefor in lieu of the prior certificate, which is void, whether canceled or not. Where the subject of sale is securities, or other evidences of debt, the collector's or deputy's certificate is a valid receipt to the person holding the same, as against any person holding the securities and other evidences of debt. (§ 92.)

BOOK IV.—THE STAMP-DUTY. *See*

## CHAPTER I. INSTRUMENTS, PAPERS, ETC.

- ARTICLE 1. In general—the act takes effect.  
 2. Supply of stamps.  
 3. Stamps for particular instruments.  
 4. Stamps, how and by whom affixed.  
 5. Penalties for not using stamps.  
 6. Canceling stamps.  
 7. Counterfeiting stamps.  
 8. Commissioner to stamp instruments exempt from duty.

## CHAPTER II. INSTRUMENTS REQUIRING STAMPS ENUMERATED.

## CHAPTER III. PROPRIETARY ARTICLES, MEDICINES, &amp;c.

- ARTICLE 1. In general.  
 2. Rate of duty.

[The sections relating to stamp-duty have undergone some important changes, which will appear in this chapter. Numberless questions must necessarily arise, under these sections, which will require judicial determination. We have not attempted to incorporate here any extended citation of English or American decisions, but have confined ourselves to a simple statement of the law, and have volunteered explanations only where obviously required. The only work on the subject of the stamp laws, the validity of instruments affected by them, &c., is the treatise of Charles Edwards, Esq., published by Mr. John S. Voorhies, of New York. Such a work is an indispensable part of every lawyer's library.]

## CHAPTER I.

## INSTRUMENTS, PAPERS, ETC.

## ARTICLE 1.—IN GENERAL—THE ACT TAKES EFFECT.

On and after October 1, 1862, certain instruments, hereafter enumerated, require to be stamped, without which they are declared invalid and of no effect. (§§ 94, 95.)

2. PAYMENT OF THE DUTY.

The duty is to be paid monthly; and within five days of the end of each month a return must be made to the assistant assessor of the district where the owner or company's principal office is situated, stating the gross amount of the tolls for the transportation of passengers, freight, &c., for the month next preceding.

The return must be verified by the owner, agent, or a proper officer of the company.

The regulations of the department as to duties on receipts of railroads apply to receipts of toll-bridges.

See RAILROADS, *supra*.

*Penalties.*—In case of refusal or neglect to make the return within five days after the same is due, the assessor, or assistant assessor, must proceed to estimate the amount received and the duties payable thereon; and in making such assessment, the books of the owner or company are subject to the inspection of the officer, on his demand.

For neglect or refusal to pay the duties within five days after they become due, an addition of five per cent on the amount of the duty is assessed; and for any attempt to evade, knowingly, the payment of the duties, the penalty is \$1,000. (§ 80.)

The provisions of the act in relation to liens and collections by distraint, not incompatible, are declared to apply to this section. (§ 80.)

UMBRELLAS.

[Duty, three per cent, ad valorem.]

The duty on umbrellas and parasols made of cotton, silk, or other material, is three per centum, ad valorem; to be paid monthly. (§ 75, as amended.)

UMBRELLA STRETCHERS.

Umbrella stretchers are not to be regarded a manufacture subject to any duty. (§ 75, last clause.)

VARNISH.

[Duty, five per cent, ad valorem.]

On varnish, made wholly or in part of gum copal, or other



One purchase of \$50 or more .....	2 per cent.
One purchase of \$100 or more .....	3 per cent.
One purchase of \$500 or more .....	4 per cent.
One purchase of \$1,000 or more .....	5 per cent.

The commissioner may, from time to time, make regulations for the allowance of such stamps as may have been spoiled or rendered useless or unfit for the purpose intended, or for which the owner may have no use, or which, through mistake, may have been improperly or unnecessarily used, or where the rates or duties represented thereby have been paid in error or remitted, and such allowance may be made either by giving other stamps in lieu of the stamps so allowed for, or by repaying the amount or value, after deducting therefrom, in case of repayment, the sum of five per cent to the owner thereof (§ 102). See Appendix V., p. 309.

#### ARTICLE 3.—STAMPS FOR PARTICULAR INSTRUMENTS.

By sections 96 and 97 it is provided that stamps for particular instruments are not to be used for any other, and, if so used, are of no avail.

These sections are, however, modified by the amendatory act of December 25, which enacts—

That no instrument, &c., required to be stamped, shall be deemed invalid and of no effect for the want of the particular kind or description of stamp designated for and denoting the duty charged on any such instrument, provided a legal stamp, or stamps, denoting a duty of equal amount, shall have been duly affixed and used thereon; *provided*, that the provisions of this section shall not apply to any stamp appropriated to denote the duty charged on proprietary articles. (*Act of Dec. 25, '62*, § 3, p. 299.)

Thus, insurance stamps can be used on a certificate of stock, or note stamps on a mortgage.

#### ARTICLE 4.—STAMPS—HOW AND BY WHOM AFFIXED.

The person who *makes, signs, and issues* the instrument, is the only person who is authorized to affix the stamp required by the law; and the person who makes, signs, and issues, &c., without affixing the stamp, incurs the penalty, and is liable to prosecution, therefor, and the instrument is invalid in consequence of such neglect. (*Decis. No. 34.*)

The commissioner decides that, when the maker of a document neglects to put on the required stamp, it will not do for the party receiving the same to affix the stamp, and cancel it, but it must be returned to the maker for him to do it. (Com'r Boutw., *N. Y. Trans.*, Oct. 31, '62.)

Whenever an instrument is executed by several parties acting jointly, one stamp only is required, which may be affixed and canceled by either of the parties. (*Id.*, *N. Y. Trib.*, Jan. 7, '63.)

In stamping instruments requiring stamps, two or more of a smaller denomination may be used in numbers sufficient to amount to the sum of the stamp required. (*Id.*, Decis. No. 30.)

All papers, except bills of exchange, made and issued in foreign countries, which are to have effect in the United States, and which, if made and issued in the United States, would require a stamp, must be stamped, and the stamp canceled by the maker at the time and place of issue.

This practice conforms to the English system in that particular. (Com'r Boutw., *N. Y. Trans.*, Jan. 2, '63.)

#### ARTICLE 5.—PENALTY FOR NOT USING STAMPS.

If any person "make, sign, issue, or cause to be made, signed, or issued, any instrument, document, or paper, of any kind," without a stamp, the penalty is \$50; and the instrument or paper is to be deemed invalid and of no effect (§ 95). But see statement of amendment of this section in section 1, above.

*Bills, notes, &c.*—The penalty for making and issuing, or accepting or paying, an unstamped bill of exchange, draft, order, or promissory note, for the payment of money, requiring a stamp, with design to evade the duty, is \$200 in each case. (§ 100.)

#### ARTICLE 6.—CANCELING STAMPS.

The person using or affixing the stamp must cancel the same by writing thereon the initials of his name, and the date of affixing it. (§ 99.)

*The penalty* for fraudulently neglecting to cancel and obliterate the stamp is \$50 forfeiture. (*Ib.*)

An exception is made in the case of stamps on proprietary articles.

See PROPRIETARY ARTICLES, *infra*.

By the amendatory act of March 3, 1863 (§ 7), the commissioner is authorized to prescribe such method for the cancellation of stamps, as a substitute for, or in addition to, the method now prescribed by law, as he may deem expedient and effectual.

The cancellation may be done by a hand-press, with the initials of the person using the stamp, and date, changed daily.

A faithful compliance with the requirements of the law requires that the stamp so affixed must be canceled, in the manner prescribed, by the party making, signing, or issuing; in other words, executing the instrument, document, or paper.

Section 99 provides, "that the person *using* or *affixing* the stamp shall write thereupon the initials of his name, date," &c.

Other portions of the law impose penalties upon persons who receive documents or articles subject to stamp-duty, from the person who makes, signs, and issues them, without being duly stamped, &c.

A faithful compliance with the requirements of the provisions of the excise law demands—

*First*, That all papers subject to stamp tax shall have the stamp affixed before the same is issued.

*Second*, That the stamps so affixed must be canceled in the manner prescribed, by the party making, signing, or issuing (in other words, executing) the instrument, document, or paper.

Hence, the receiving of an unstamped paper is a violation of the law. The attaching and canceling of a stamp on a document so received, is also unlawful; and the cancellation of a stamp on a paper (otherwise lawfully issued) by other than the party executing the paper to which the stamp is affixed, is equally improper.

The only exception that exists, in the law, to the above ruling, is in the case of a bill of exchange, or order for the payment of any sum of money drawn, or purporting to be drawn, in any foreign country, but payable in the United States, in which case the acceptor or acceptors shall, before paying or accepting the same, place thereupon a stamp, indicating the duty upon the same, as provided by section 101 of the excise law. (Com'r Boutw., Decis. No. 34.) The omission to cancel the stamp on a check does not invalidate it, but the maker is liable to \$50 fine.

## ARTICLE 7.—COUNTERFEITING STAMPS.

ring, counterfeiting, or using forged or counterfeited knowingly, and fraudulently cutting or tearing a from an instrument, or aiding and abetting it, is declaration, and, on conviction, the convicted party must forfeit the counterfeited stamps, and the articles upon which they were used, and may be punished by a fine not exceeding \$100, and by imprisonment not exceeding five years. (§ 98.)

## ARTICLE 8.—COMMISSIONER TO STAMP INSTRUMENTS EXEMPT FROM DUTY.

Any person may present to the commissioner any instrument and require his opinion whether or not it is chargeable with stamp duty. If it is his opinion that it is not chargeable, he is authorized to impress thereon a particular stamp, signifying that the instrument requires no stamp. And every such instrument so stamped, "shall be received in evidence in all courts of law and equity, notwithstanding any objection made to the instrument as being chargeable with stamp duty, and not stamped."

## CHAPTER II.

## INSTRUMENTS REQUIRING STAMPS ENUMERATED.

[Following are the instruments, documents, papers, &c., enumerated in Schedule B as subject to stamp-duty.]

**Acknowledgment**, or proof of an instrument by attesting witnesses, is not a certificate requiring a stamp. (*Act of March 3, '63, § 6.*)

**Affidavits** do not require stamps. "Sworn to," &c., is not a certificate. Com'r Lewis, however, holds the contrary view.

**Agreements or contracts**, other than those specified in Schedule B, require, for each sheet or piece of paper used, a stamp.....5 cents.

The only other contracts specified in Schedule B are contracts for the charter of vessels, &c., and brokers' memoranda of sales, which are marked "contract;" and now, contracts for the sale or purchase of coin, though many other of the specified objects amount, in law, to contracts. An "agreement or contract," therefore, must cover every conceivable obligation in writing by which the parties bind themselves to do, or not to do, anything; and which would be evidence against both the contracting parties. See **CONTRACTS**. See **DECISION** on p. 313.

When an instrument contains agreements of several kinds, each of which, if separate, would require a stamp, it is necessary to affix a stamp equal to the aggregate amount of all the stamps required for the different agreements, if separate. Thus, Com'r Boutwell decides that a power of attorney "to sell stock, to vote at an election, to collect rent, and to sell real estate," requires a \$1.60 stamp. (*N. Y. Trans.*, Oct. 31, '62.)

An assignment of a mortgage, containing a guaranty of collection, requires an agreement stamp, in addition to the mortgage stamp.

Permits or agreements, by which the terms of a policy are varied or changed in any respect, require "agreement" stamps. (Com'r Boutw., *Decis.* No. 35.)

Appraisements of value or damage, or for any other purpose, for each sheet or piece of paper used . . 5 cents  
 Assignments or transfers of *mortgages, leases, and policies of insurance*, require stamps equal to those imposed upon the original instrument.

This is one of the amendments adopted March 3, 1863, and renders inapplicable several decisions by the commissioner, to the effect that "assignments" require no stamp. Assignments of other than the above instruments cannot now be deemed to require any stamp. But where an assignment—*e. g.*, an assignment of a mortgage—contains a guaranty of amount due thereon, or of collection thereof, it is subject to tax as an "agreement." The same is true regarding assignments of letters patent. (Com'r Boutw., *N. Y. Trans.*, Jan. 16, '63.)

As to assignments by trustee, see p. 310.

**Bills of Exchange (INLAND).—***Drafts, orders or notes* for the payment of any sum of money exceeding \$20, otherwise than at sight or on demand, for every \$200 or fractional part thereof, if payable on demand, or within 33 days, including grace, from date or sight. . . . . 1 cent.  
 If payable at any time over 33 and not over 63 days, including grace. . . . . 2 cents.  
 If payable at any time over 63 and not over 93 days, including grace. . . . . 3 "  
 If payable at any time over 93 days and not over four months, including grace. . . . 4 "  
 If payable at any time over four months and not over six months, including grace. . 6 "  
 If payable at any time over 6 months, including grace. . . . . 10 "

This is one of the amendments adopted March 3, 1863 (§ 6, p. 287, *infra*), and very greatly modifies the law in respect to stamps on inland bills, drafts and promissory notes. Before the amendment, the stamp-duty was rated entirely according to the *amount* of the instrument; as the law now stands, the *time* also controls the stamp. The duty on sight drafts, checks, &c., is not altered by the late amendments.

— (FOREIGN), or letters of credit, drawn in, but payable out of, the United States, if *drawn singly* or otherwise than in a set of three or more, according to the custom of merchants and bankers, same rates as inland bills, above.

If drawn in duplicate, both must be stamped.

*If drawn in sets of three or more, for every bill of each set, where the sum does not exceed \$150, or the equivalent thereof in any foreign currency in which such bills may be expressed, according to the standard fixed by the United States.....*

				\$0.03
Above \$150 and not above \$250.....				.05
“ 250 “ “ 500.....				.10
“ 500 “ “ 1,000.....				.15
“ 1,000 “ “ 1,500.....				.20
“ 1,500 “ “ 2,250.....				.30
“ 2,250 “ “ 3,500.....				.50
“ 3,500 “ “ 5,000.....				.70
“ 5,000 “ “ 7,500.....				1.00

For every \$2,500, or part thereof, in excess of \$7,500..... .30

Though the several States, in mercantile law, are foreign to each other, yet from the wording of the statute, defining a foreign bill to be one “drawn in, but payable out of, the United States,” it is clear that a bill drawn in one State, and payable in another, is to be regarded an *inland* bill for the purposes of this act.

Where any bill of exchange or order for the payment of money is drawn out of, but payable in, the United States, the acceptor, before paying or accepting the same, must place upon it the proper stamp, as the law requires for inland bills or notes. (§ 101.)

*The penalty for paying or negotiating, or offering in payment or receiving in payment, such draft or order, is \$100. (Ib.)*

**Bills of Lading** or receipt (other than charter-party) for goods to be exported from the United States to any foreign port..... 10 cents.

This does not apply to vessels plying between United States ports and ports in British North America. (*Schedule B.*)

There is no provision, as in the case of foreign bills of exchange, requiring stamps for each set, when drawn in triplicate.

**Bill of Sale** by which any *ship or vessel*, or any part thereof, is conveyed to, or vested in, another—

When the consideration does not exceed \$500, stamp..... 25 cents.

When the consideration exceeds \$500, and does not exceed \$1,000, stamp..... 50 “

When the consideration is over \$1,000, for every \$1,000 or less in excess of \$1,000. 50 cents.  
of Sale of other kinds of personal property requires no stamp.

And, **personal**, given as security for the payment of any definite or certain sum of money, required, under the statute before amendment, stamps rated according to a scale of amounts ranging from \$100 to \$20,000. Under the statute as amended by the act of March 3, 1863 (p. 290, *infra*), personal bonds (and mortgages) require, for every \$200 or fractional part thereof stated in the instrument, a stamp of..... 10 cents.

See MORTGAGE, *infra*.

— for indemnifying a surety for the payment of money ..... .50

— for performance of the duties of any office, and to account for money received by virtue thereof.... .50

The commissioner decides that trustees' bonds come within the meaning of this last clause. (Com'r Boutw., *N. Y. Times*, Feb. 15, '63.) As to *Executor's Bonds*, see DECISION No. 105, p. 322, *infra*.

— of all other descriptions, than such as may be required in legal proceedings, and such as are not otherwise here mentioned..... 25 cents.

The commissioner decides that bonds for the conveyance of land come under this clause. (Com'r Boutw., *N. Y. Times*, Feb. 15, '63.)

See LEGAL PROCEEDINGS, *infra*.

**Certificates of Damage** or otherwise, and all other certificates or documents issued by any *port warden*, *marine surveyor*, or person acting as such. 25 cents

— of **Deposit** of any sum of money, in a bank or trust company, or with any banker or person acting as such—

For sum not over \$100 ..... 2 “

For sum exceeding \$100..... 5 “

A certification of a bank check, by the paying teller's marking it, or writing his name across it, does not come with-



Exceeding 300 and not exceeding 600 tons.. \$5.00  
 Exceeding 600 tons..... 10.00

Every copy of "charter-party contracts," on which reliance is placed as evidence, must bear a stamp. (Com'r Boutw., *N. Y. Trans.*, Nov. 8, '62.) It will be observed that the statute has reference to the charter of "any ship or vessel, or steamer," and does not, in terms, speak of the affreightment of money, goods, &c.

**Check, Draft or Order** for the payment of any sum of money exceeding \$20, drawn upon any bank, trust company, or any person or corporation, *at sight or on demand*..... 2 cents.

The stamp-duty on orders for over \$20, *otherwise than at sight or on demand*, is the same as that upon inland bills. See **BILLS OF EXCHANGE (INLAND)**, *supra*.

A check for \$20 does not require a stamp.

Checks dated or payable ahead require stamps as promissory notes.

Checks of a bank upon itself for the payment of dividends, or other purposes, require stamps.

Notes payable at bank are not liable, as checks, to stamp duty. (Com'r Boutw., *N. Y. Times*, Dec. 14, '62.)

See **PROMISSORY NOTES**, *infra*.

**Clearance**.—See **MANIFEST**, *infra*.

**Consumption Entry**.—See **ENTRY**, *infra*.

**Contracts**.—Broker's note, or memorandum of sale of any goods or merchandise, stocks, bonds, exchange, notes of hand, real estate, or property of any kind or description issued by brokers or persons acting as such..... 10 cents.

See **AGREEMENTS**, *supra*.

— for the purchase or sale of coin or bullion.—All contracts to be performed after three days, for the purchase or sale of gold and silver coin or bullion, secured by pledge or deposit, or other disposition of gold or silver coin of the United States, must bear agreement stamps, equal in amount to one-half of one per cent, and interest at six per cent on the amount loaned, pledged, or deposited. (§ 4, p. 285, *infra*.)

The duty cannot be avoided by making the contract to be

performed within three days, for, if renewed, or in any way extended for any time whatever, the contract will require stamps as if originally made to be performed after three days.

But loans of gold and silver at their par value are subject only to the duty imposed on other loans.

And nothing in this act applies to transactions by or with the Government of the United States.

*Parol contracts* of this nature are not allowable, but all contracts for the purchase or sale of coin, &c., "shall be in writing, or printed, and signed by the parties or their agents or attorneys."

No loan of currency or money, on the security of gold or silver coin of the United States, can be made, exceeding in amount the par value of the coin pledged or deposited as security. Any loan so made or attempted to be made is declared to be void. See Decision in Appendix V., p. 309.

*Penalties.*—In addition to the penalties for defrauding the revenue, any party to a fraudulent contract for the purchase, sale, or loan of coin, &c., may, within a year from the date of the contract, bring a suit for the recovery, for his own use, of the money paid on the contract. (*Act of March '3, '63, §§ 4, 5.*)

<b>Conveyance, deed, instrument, or writing, whereby any lands, tenements, or other realty sold, are granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person or persons, by his, her or their direction, the consideration exceeding \$100, and not exceeding \$500.....</b>		<b>\$0.50</b>
Exceeding \$500, and not exceeding \$1,000..		1.00
Exceeding \$1,000, and not exceeding \$2,500..		2.00
Exceeding \$2,500, and not exceeding \$5,000..		5.00
Exceeding \$5,000, and not exceeding \$10,000..		10.00
Exceeding \$10,000, and not exceeding \$20,000.....		20.00
For every additional \$10,000, or fractional part thereof, in excess of \$20,000.....		20.00

Conveyances cannot be made subject to more than one ad valorem stamp-duty. (*Act of March 3, '63, § 6, p. 286.*) It will be observed that the statute has reference to real estate and to a sale of it.

If the commissioner decides that a deed of gift or trust re-

Exceeding 300 and not exceeding 600 tons.. \$5.00  
 Exceeding 600 tons..... 10.00

Every copy of "charter-party contracts," on which reliance is placed as evidence, must bear a stamp. (Com'r Boutw., *N. Y. Trans.*, Nov. 8, '62.) It will be observed that the statute has reference to the charter of "any ship or vessel, or steamer," and does not, in terms, speak of the affreightment of money, goods, &c.

**Check, Draft or Order** for the payment of any sum of money exceeding \$20, drawn upon any bank, trust company, or any person or corporation, *at sight or on demand*..... 2 cents.

The stamp-duty on orders for over \$20, *otherwise than at sight or on demand*, is the same as that upon inland bills. See **BILLS OF EXCHANGE (INLAND)**, *supra*.

A check for \$20 does not require a stamp.

Checks dated or payable ahead require stamps as promissory notes.

Checks of a bank upon itself for the payment of dividends, or other purposes, require stamps.

Notes payable at bank are not liable, as checks, to stamp duty. (Com'r Boutw., *N. Y. Times*, Dec. 14, '62.)

See **PROMISSORY NOTES**, *infra*.

**Clearance**.—See **MANIFEST**, *infra*.

**Consumption Entry**.—See **ENTRY**, *infra*.

**Contracts**.—Broker's note, or memorandum of sale of any goods or merchandise, stocks, bonds, exchange, notes of hand, real estate, or property of any kind or description issued by brokers or persons acting as such..... 10 cents.

See **AGREEMENTS**, *supra*.

— for the purchase or sale of coin or bullion.—All contracts to be performed after three days, for the purchase or sale of gold and silver coin or bullion, secured by pledge or deposit, or other disposition of gold or silver coin of the United States, must bear agreement stamps, equal in amount to one-half of one per cent, and interest at six per cent on the amount loaned, pledged, or deposited. (§ 4, p. 285, *infra*.)

The duty cannot be avoided by making the contract to be

formed within three days, for, if renewed, or in any way tended for any time whatever, the contract will require stamps as if originally made to be performed after three days.

But loans of gold and silver at their par value are subject ly to the duty imposed on other loans.

And nothing in this act applies to transactions by or with a Government of the United States.

*Parol contracts* of this nature are not allowable, but all contracts for the purchase or sale of coin, &c., "shall be in writing, or printed, and signed by the parties or their agents or attorneys."

No loan of currency or money, on the security of gold or silver coin of the United States, can be made, exceeding in amount the par value of the coin pledged or deposited as security. Any loan so made or attempted to be made is declared to be void. See Decision in Appendix V., p. 309.

*Penalties.*—In addition to the penalties for defrauding the revenue, any party to a fraudulent contract for the purchase, sale, or loan of coin, &c., may, within a year from the date of the contract, bring a suit for the recovery, for his own use, of the money paid on the contract. (*Act of March '3, '63, § 4, 5.*)

Conveyance, deed, instrument, or writing, whereby any lands, tenements, or other realty sold, are granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person or persons, by his, her or their direction, the consideration exceeding \$100, and not exceeding \$500.....	\$0.50
Exceeding \$500, and not exceeding \$1,000..	1.00
Exceeding \$1,000, and not exceeding \$2,500..	2.00
Exceeding \$2,500, and not exceeding \$5,000..	5.00
Exceeding \$5,000, and not exceeding \$10,000..	10.00
Exceeding \$10,000, and not exceeding \$20,000.....	20.00
For every additional \$10,000, or fractional part thereof, in excess of \$20,000.....	20.00

Conveyances cannot be made subject to more than one thousand dollars stamp-duty. (*Act of March 3, '63, § 6, p. 286.*)

It will be observed that the statute has reference to real estate, and to a sale of it.

The commissioner decides that a deed of gift or trust re-

quires a mortgage stamp. (Com'r Boutw., *N. Y. Times*, Jan. 12, '63.)

Bills of sale of personal property are not subject to stamp duty. (*Id.*, *N. Y. Times*, Feb. 15, '63.) See *supra*, p. 194.

The amount of stamp-duty is governed by the amount of consideration-money expressed in the deed. Any fraud in naming the amount invalidates the instrument. In the purchase of land subject to a mortgage, which the purchaser assumes, the amount of the mortgage is, without doubt, to be considered a part of the consideration.

See Decision No. 75 on this point, in Appendix V., p. 310.

In all cases where property is sold subject to mortgage, the stamp upon the deed must be proportioned to the value of the equity conveyed. Where the amount, after deducting the mortgage, is \$3,500, a five-dollar "conveyance" stamp is required. (Com'r Boutw., Decis. Jan. 15, '63.)

In a conveyance of land to a widow in lieu of dower, the following is the rule for ascertaining the amount of stamp-duty :

The present value of the portion of the estate conveyed by the deed should be ascertained by the tables, the value deducted from the value of the estate, estimated free of all incumbrances, and the stamp-duty upon the deed measured by the remainder. In most cases the consideration named in a conveyance of an estate, subject to the dower as above, should indicate the value of the required stamp. (Com'r Boutw., *N. Y. Trib.*, March 16, '63.)

In a case submitted to the commissioner, he decides that the original writ in the suit having been properly stamped, a sheriff's deed, under an execution issued upon the judgment, will require to be stamped under the head of "conveyance." The date of the deed must determine its liability to stamp-duty, independent of the date of the original process. It may be a matter of agreement between the sheriff and the purchaser as to which of the two shall *pay for* the stamp on the deed. (*N. Y. Trans.*, Feb. 9, '63.)

As to a conveyance by a trustee, see page 310.

**Deeds.**—See CONVEYANCE, *supra*.

**Drafts.**—See CHECKS, &c., *supra*.

**Entry of goods, at any custom-house, either for consumption or warehousing—**

Not exceeding in value \$100.....\ 25 cents.

Exceeding in value \$100, and not exceeding \$500.....	\$0.50
Exceeding \$500.....	1.00
FOR WITHDRAWAL of any goods from bonded warehouse.....	.50

**Express Receipt.**—The stamp-duty imposed on express companies' stamps or receipts for transportation is repealed by the act of March 3, 1863 (§ 10, p. 270), and in lieu thereof a duty is imposed on the yearly profits of the company.

See EXPRESS COMPANIES, Book II.

**Lease**, agreement, memorandum or contract, for the hire, use or rent of any land, tenement, or portion thereof—

For three years or less.....	\$0.50
Over three years.....	1.00

*An assignment of a lease requires the same stamp as the original instrument. (Act of March 3, '63, § 6, p. 287.)*

A paper, therefore, containing an agreement to *hire* on the part of the tenant, and an agreement to *rent* on the part of the landlord, requires two stamps.

A mere suretyship (without a bond) does not seem to require any stamp.

The commissioner has decided that a strict construction of the law relative to stamp-duties upon leases, &c., will require that a stamp of the denomination of fifty cents shall be attached to every lease; and an agreement to lease, from month to month—no certain period of time being set forth—must be construed to mean, and will so be regarded, as a “lease for a period of time,” and therefore subject to the duty imposed by the excise law upon such instruments. (*N. Y. Trans.*, Dec. 5, '63.)

**Legal Documents.**—Writ, or other original process by which a suit is commenced in any court of record, law or equity..... 50 cents.

But no writ, summons, or other process issued by a justice of the peace, or in suits commenced by the Federal or State Government, is subject to payment of stamp-duty. (*Sched. B.*, p. 291.)

The commissioner decides that actions by consent are subject to stamp-duty as original process. (*N. Y. Times*, Feb. 15, '63.)

**Bonds**, required in legal proceedings—such as replevin bonds, injunction bonds, bonds to dissolve attachments—are not subject to stamp-duty. (*Schedule B.*)

"The original writ" requires the fifty-cent stamp, and this stamp "covers all further judicial proceedings in the case," except such papers as come within the scope of the excise law and are subject to stamp-duty. (Com'r Boutw., *N. Y. Trans.*, Feb. 9, '63.)

**Letters of Administration.**—See PROBATE OF WILL, *infra*.

**Letters of Credit.**—See BILL OF EXCHANGE (FOREIGN), *supra*.

**Lottery Tickets**, fractional parts of lottery tickets, policies of numbers in lotteries, tokens, certificates, &c., representing the holder entitled to any prize in any lottery or game of hazard or chance, the amount risked not exceeding \$1... 50 cents.  
For every \$1 risked, over \$1..... 50 "

*The penalty* for not affixing a stamp is \$50 for each offence. The ticket can have no legal effect unless stamped; and if not stamped, the seller forfeits twice the amount paid for the ticket. (*Act of March 3, '63, § 2, p. 285.*)

**Manifests for Custom-house Entry**, or clearance of the cargo of any vessel for a foreign port:

Registered tonnage not exceeding 300 tons.....	\$1.00
Exceeding 300 and not exceeding 600 tons.....	3.00
Exceeding 600 tons.....	5.00

This does not apply to vessels plying between United States ports and ports in British North America. (*Schedule B.*)

**Marine Protests**, whether protested by a notary public or by any other authorized officer.....25 cents.

**Medicines.**—See PROPRIETARY ARTICLES, chapter ii., *post*.

**Mortgage** of real or personal, heritable or movable property, where made as a security for the payment of any definite sum of money lent at the time, or previously due and owing, or forborne to be paid, being payable; also any *conveyance* of any lands, estate, or property whatsoever in trust to be sold or otherwise converted into money, intended only as security, and redeemable before the sale or other disposal thereof, either by express stipulation or otherwise; or any personal *bond* given as security for the payment of any definite or certain sum of money, required stamps, under the act before amendment, varying according to specified amounts. Under the amendatory act of March 3, 1863, mortgages and personal bonds of the above description require, upon every sum of \$200, or fractional part thereof, a ten-cent stamp.

No mortgage shall be subject to a stamp-duty exceeding \$1,000. (*Act of March 3, '63, § 6, p. 286.*)

*An assignment of a mortgage requires the same stamp as the original instrument. (Ib.)*

Under the statute, before amendment, the commissioner decided that when a bond and mortgage, or note and mortgage, are given to secure the same debt, the bond and mortgage, or note and mortgage, require to be stamped. The bond, as a personal bond for a certain sum of money, requires a mortgage stamp; the mortgage, a mortgage stamp; and the note, a bill of exchange (inland) stamp. When all the instruments—viz., mortgage, bond and note—are given to secure the same debt, the law requires that each instrument shall have its appropriate stamp. (Com'r Boutw., *N. Y. Trans.*, Dec. 26, '62.) But by the amendatory act of March 3, 1863 (§ 6, p. 286), it is provided that, "whenever any bond or note shall be secured by a mortgage, but one stamp-duty shall be required to be placed on such papers; *provided* that the stamp-duty placed thereon is the highest rate required for said instruments, or either of them." A mortgage, with power to sell attached, requires a power-of-attorney stamp, in addition to the mortgage stamp.

**Official Instruments**, documents and papers, issued or used by the officers of the United States Government, are exempt from stamp-duty. (*Act of Dec. 25, '62, § 4, p. 299.*)

The commissioner has issued a regulation to the effect that official instruments, documents and papers issued or used by the officers of any State government, are exempt from stamp-duty. (Com'r Boutw., *N. Y. Trib.*, Jan. 7, '63.)

**Order for payment of money.** See CHECKS, and BILLS OF EXCHANGE, *supra*.

**Passage Ticket** by any vessel, from a port in the United States to a foreign port, costing \$30, or less . . . 50 cents.

But this does not apply to vessels plying between United States ports and the ports of British North America. (*Schedule B.*)

**Policies of Insurance (life)**, or other instruments, by whatever name the same shall be called, whereby any insurance shall be made upon any life or lives—

When the amount insured shall not exceed \$1,000.	\$0.25
Exceeding \$1,000, and not exceeding \$5,000 . . .	.50
Exceeding \$5,000 . . . . .	1.00



*An assignment of a policy of insurance requires the same stamp as the original instrument. (Act of March 3, '63, § 6, p. 287.)*

*Deposit notes for insurance require no stamp. (Ib.) See PROMISSORY NOTES, infra.*

All life-insurance policies are subject to stamp-duty when the policy is conditional that the assured is to pay a certain sum annually, or at any other stated period. Receipts for such payments are not subject to stamp-duty.

If the policy has expired by limitation, or by non-fulfillment of the conditions of the assured, renewal or revival of the policy, in whatever form made, will be subject to stamp tax.

Permits or agreements, by which the terms of a policy are varied or changed in any respect, are subject to stamps as agreements. (Com'r Boutw., Decis. No. 35.)

——— (marine, inland, and fire).—Each policy of insurance, or other instrument, by whatever name called, by which insurance is made or renewed upon property of any description, whether against perils by the sea or by fire, or other peril of any kind, made by any insurance company, or its agents, or by any other company or person, the premium or assessment\* not exceeding \$10..... 10 cents.  
Exceeding \$10..... 25 “

This limitation is by the act of March 3, 1863.

1. Each insurance policy, whether fire or marine, must be stamped.

2. An open policy will require but one stamp where the risks entered under such policy are all upon property shipped by, or consigned or belonging to, the policyholder.

3. Whenever certificates, or other evidences of insurance, are issued by the holder of an open policy, every such paper must bear an appropriate insurance stamp. (Com'r Boutw., Decis. No. 29.)

The stamp must be affixed by the company issuing the policy. (*Id.*, *N. Y. Trans.*, Jan. 12, '63.)

\* The commissioner construes the phrase “premium or assessment,” here used, to include all payments for insurance, whether in money, or in a premium or deposit note.

Indorsements upon a policy of insurance are not regarded as separate contracts, requiring separate stamps. The stamp upon the policy itself covers all indorsements upon it, and is alone necessary. But all policies, renewals, and indorsements other than open policies, are subject to duty. (*Id.*, *N. Y. Trans.*, Nov. 13, '62.)

Power of Attorney to perform any other acts than enumerated below, *stamp* ..... \$1.00

No stamp is required on powers of attorney, or other papers relating to applications for bounties, arrearages of pay, or pensions, or to the receipt thereof from time to time, or indemnity awarded for depredations and injuries by the Sioux Indians, nor on any warrant of attorney accompanying a bond or note, when such bond or note is properly stamped. (*Act of March 3, '63*, § 6, p. 286.)

— to sell or transfer any scrip or certificate of profits, or memorandum showing an interest in the profits or accumulations of any incorporation, for a sum not exceeding \$50 ..... 10 cents.

— to sell or transfer stock, bonds, or scrip, or to collect dividends or interest thereon [for a sum exceeding \$50] ..... 25 “

Commissioner Boutwell, under the act before amendment, decided that orders to pay dividends were not powers of attorney, but sight drafts, requiring a two-cent stamp.

Any written authority, in whatever form drawn, made by a stockholder in a corporation, for the transfer of shares in such corporation, is regarded as a power of attorney, and as such is subject to a stamp duty of twenty-five cents. (*Com'r Boutw.*, *Decia. No. 63.*)

— to sell and convey real estate, or lease the same, or to perform any and all acts not herein specified ..... \$1.00

Power of attorney to sell the mortgaged premises requires, in addition to the stamp on the mortgage, a general power-of-attorney stamp—\$1. (*Id.*, *N. Y. Trans.*, Jan. 12, '63.)

— to collect and receive rent ..... 25 cents.

— to vote at any election for officers of any incorporated company or society, except religious, charitable or literary, or public cemeteries ..... 10 “

Probate of Will, or Letters of Administration, where the estate and effects for or in respect of which such probate is applied for shall be sworn or declared not to exceed the value of \$2,500....				\$0.50
To exceed	\$2,500, and not exceeding	5,000....		1.00
"	5,000,	"	20,000....	2.00
"	20,000,	"	50,000....	5.00
"	50,000,	"	100,000....	10.00
"	100,000,	"	150,000....	20.00
For every additional \$50,000, or fractional part....				10.00

The duty is fixed on the amount of estate and effects *sworn or declared*. No provision is made for cases where the amount of property in an administration case may happen to turn out larger than that sworn to by the administrator on taking letters.

An executor must now ascertain the amount of the testator's property before applying for probate, so that the letters may bear the proper stamp. (See *Edwards' Stamp Act*, p. 186.)

Promissory Notes, except bank notes issued for circulation, for every \$200, or fractional part thereof, if payable on demand, or not over 33 days from date or sight, with grace.....				1 cent.
Over 33	and not over 63 days .....			2 cents.
" 63	" " 93 " .....			3 "
" 93 days,	and not over 4 months....			4 "
" 4	and not over 6 months.....			6 "
" 6 months.....				10 "

*What is a promissory note.*—Any memorandum, check, receipt, or other written or printed evidence of an amount of money to be paid on demand, or at a time designated, is a promissory note, and must be stamped accordingly. (*Act of March 3, '63, § 6*, p. 288.)

Notes bearing interest do not require stamp for the interest. (*Preussing v. Ing*, 4 B. & Ald. 204.) See CHECKS; BILLS OF EXCHANGE, *supra*. See Table I, in Appendix V.

Deposit Notes, to mutual insurance companies, for insurance upon which policies subject to stamp duties have been, or are to be, issued, do not require a stamp. (*Act of March 3, '63, § 6*, p. 286.)

**Notes secured by Mortgage** do not require, each, separate stamps.  
See **MORTGAGE**, *supra*.

**Protest** of a note, bill of exchange, acceptance, draft, or any marine protest, whether protested by a notary public or by any other officer authorized by State laws.....25 cents.

**Receipts**, generally, do not require a stamp.

A receipt is, no doubt, in a technical sense, an agreement or contract, but in the ordinary use of language this close construction does not hold. Had congress intended to include receipts, it would have been easy to have so provided in plain language. (Com'r Boutw., Decis. No. 28.)

See **PROMISSORY NOTES**, *supra*. **WAREHOUSE RECEIPTS**, *infra*.

**Release** of a mortgage requires no stamp. (Com'r Boutw., *N. Y. Trans.*, Jan 12, '68.)

**Telegraphic Dispatch** or message, the charge of which, for the first ten words, does not exceed twenty cents..... 1 cent.  
Exceeding twenty cents ..... 3 cents.

Only one stamp is required, whether the message is sent through one or more lines. (§ 104.)

The penalty for receiving a message to be telegraphed, without a stamp, is \$10. (§ 104.)

Telegraphic dispatches or messages sent from an office without the United States to an office within the United States are not subject to stamp tax, provided they be transmitted directly to their final destination, since the stamp can only be affixed by the person sending the dispatch, who is in this case outside of the jurisdiction of the United States. If received at an office within the United States, and repeated to another office within or without the United States, the stamp must be affixed and canceled by the operator at the office where the messages are repeated. (Com'r Boutw., Decis. No. 44.)

Messages transmitted by telegraph and railroad companies over their own wires, on their own business, for which they receive no pay, are not taxable. (*Id.*, Decis. No. 30.)

**Warehouse Entry**.—See **ENTRY**, *supra*.

**Warehouse Receipt** for any goods, merchandise, or property of any kind, held on storage in any public or private warehouse or yard.....25 cents.

## CHAPTER III.

## PROPRIETARY ARTICLES, PATENT MEDICINES, ETC.

- ARTICLE 1. Proprietors may furnish their own stamps.  
 2. No stamps required on articles to be exported.  
 3. Rate of duty.

## ARTICLE 1.—PROPRIETORS MAY FURNISH THEIR OWN STAMPS.

Proprietors of proprietary articles, or articles enumerated in Schedule C, have the privilege of furnishing, without expense to the United States, their own dies or designs for stamps,—the form to be approved by the commissioner of internal revenue, and to be retained in his possession, for their use. And these are not to be duplicated to any other person. In such case, the proprietor will be entitled to the following discount (§ 102):

On amounts of not less than \$50 nor more than \$500, purchased at the same time..... 5 per cent.  
 Over \$500, purchased at the same time... 10 per cent.

The commissioner of internal revenue has established the following regulations in regard to individual stamps for proprietary articles:

If the designs do not exceed the superficial area thirteen-sixteenths of an inch for the denomination of one or two cent stamps, or sixty-three sixty-fourths of an inch for the denomination of three or four cent stamps—these being the sizes established by the office for the above specified denominations—there will be no additional charge to purchasers. If, however, proprietors desire to increase the size of the stamps for the denominations above mentioned, then an additional charge will be made for the cost additional of paper and printing. This additional charge will be ten cents per thousand for stamps of three and one-eighth inches superficial area, and a proportionate sum for intermediate sizes.

Every stamp must be rectangular in form.

All dies and plates will be retained by, and be under the exclusive control of, the Government.

The general stamp must be canceled by writing thereon the initials of the proprietor of the stamped article, and the date of canceling, while the private stamp must be so affixed on the package that, on opening the same, the stamp shall be effectually destroyed.

Where printing in more than one color is desired, the additional expense must be borne by the proprietor.

Each stamp must bear the words, or a proper abbreviation of the words, "United States internal revenue," and the name of the article; also, in word and figures, the denominations of the stamp.

*The cancellation of proprietary stamps must be effected by so affixing the stamp upon the box, bottle, or package that, in opening it, the stamp may be destroyed.*

The penalty for not so affixing the stamp is the same as that imposed for neglect to affix said stamp as above stated. (§ 99.)

Any person fraudulently obtaining or using proprietary stamps or designs, or forging or counterfeiting any likeness or colorable imitation of the same, or selling or giving away the same, or, being a dealer in similar goods, shall have in his possession, knowingly and fraudulently, any such forged or counterfeited likeness, is to be deemed guilty of a misdemeanor, and, on conviction, is punishable as prescribed by section 95. (§ 99.)

*The penalty for preparing drugs, &c., for consumption or sale, without stamp, is \$10. (§ 107.)*

*For removing or misusing the stamp, the penalty is \$50 for each offence. (§ 108.)*

*For selling articles above mentioned without stamp, the penalty is \$100, with forfeiture of the article, except when removed for exportation. (§ 109.)*

*Exempt.*—No stamp is required for any uncompounded medicinal drug or chemical, nor any medicine compounded according to the United States or other national pharmacopœia, nor of which the full formula is published in either of the dispensatories, formularies or text-books in common use among physicians and apothecaries, including homeopathic and eclectic, or in any pharmaceutical journal now used by any incorporated college of pharmacy, and not sold or advertised under any other name than that laid down in said pharmacopœias, text-books, &c. (§ 107.)

So, medicines compounded by a physician's prescription require no stamp. (*Ib.*)

Manufacturers of preparations requiring stamp must make a monthly declaration, in writing, that no articles have been removed from the manufactory during the month without stamp. The penalty for making an untrue statement is \$500, and for failing to make any statement is \$100. (§ 110.)

**ARTICLE 2.—NO STAMPS REQUIRED ON ARTICLES TO BE EXPORTED.**

No stamp is required when the article is intended for exportation. In such case, bonds must be given (§ 109). All medicines, preparations, &c., intended for exportation, in order to be removed without being charged with duty, and without having a stamp affixed thereto, may, under the rules and regulations of the secretary of the treasury, be made and manufactured in warehouses known and designated in treasury regulations as bonded warehouses, class two. Such manufacturer must first give satisfactory bonds to the collector of internal revenue for the faithful observance of the rules and regulations herein provided for, in amount not less than half required by the regulations of the secretary of the treasury from persons allowed bonded warehouses, class two. Such goods, when manufactured in such warehouses, may be removed for exportation, under the direction of the revenue officer having charge thereof, without being charged with duty, and without having a stamp affixed thereto. Any manufacturer of such articles having such bonded warehouse, is at liberty to convey therein any materials to be used in such manufacture which are allowed to be exported free from tax or duty, as well as the necessary materials, implements, packages, vessels, brands, and labels for the preparation, putting up, and export of the manufactured articles; and every article so used is exempt from stamp and excise duty. Articles and materials so to be used may be transferred from any bonded warehouse in which the same may be, under such regulations as the secretary of the treasury may prescribe, into any bonded warehouse, class two, in which the manufacture may be conducted, and may be used in such manufacture, and, when used, are exempt from stamp and excise duty; and the receipt of the officer of the revenue in charge shall be received as a voucher for the manufacture of such articles.

Any materials imported into the United States may, under rules of the secretary of the treasury, be removed, in original packages, from on shipboard, or from the bonded warehouses into the bonded warehouse, class two, for the purpose of being used in such manufacture, without payment of duties thereon, and may there be used in such manufacture. No article so removed, nor any article manufactured in said bonded warehouse, class two, is to be taken therefrom except for exportation. All labor performed and services rendered under these regulations is to be under the supervision of an officer of the customs, and at the expense of the manufacturer. (*Act of March 3, '63, § 28, p. 282, infra.*)

For a regulation of the commissioner concerning articles manufactured prior to Sept. 1, '62, see p. 316, *infra*.

ARTICLE 3.—RATE OF DUTY.

Stamps are required to be affixed to packages of medicines, perfumery, &c., according to the following scale:

**Medicine, Perfumery, &c.—**

Retailed at 25 cents, or less, each package.....	1 cent.
“ 25 to 50 cents, each package.....	2 cents.
“ 50 to 75 “ “ “.....	3 “
“ 75 to \$1.00, “ “ “.....	4 “

Retailed, for every 50 cents or fractional part over \$1..... 2 “

See Schedule C of the act, in the APPENDIX, *infra*, p. 291.

**Playing Cards, per pack, of whatever number—**

Retailed at 18 cents or less.....	1 cent.
“ 18 to 25 cents.....	2 cents.
“ 25 to 30 “.....	3 “
“ 30 to 36 “.....	4 “
“ over 36 “.....	5 “





*Repealed June 30/64*

[ APPENDIX. ]

# EXCISE TAX

AS AMENDED. *Chas 27/6*

[The amendments adopted March 3, 1863, are incorporated in the original act. The entirely new sections of the amendatory act are, for distinction, placed within brackets. The amendments of particular sections are indicated by italics. It is confidently believed that this is a perfectly accurate transcript of these two acts, it having been very carefully compared with the official copies. The other amendatory acts are appended.]

## AN ACT

To provide internal revenue to support the Government and to pay interest on the public debt.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, for the purpose of superintending the collection of internal duties, stamp duties, licenses, or taxes imposed by this act, or which may be hereafter imposed, and of assessing the same, an office is hereby created in the treasury department, to be called the office of the commissioner of internal revenue; and the president of the United States is hereby authorized to nominate, and, with the advice and consent of the Senate, to appoint, a commissioner of internal revenue, with an annual salary of four thousand dollars, who shall be charged, and hereby is charged, under the direction of the secretary of the treasury, with preparing all the instructions, regulations, directions, forms, blanks, stamps, and licenses, and distributing the same, or any part thereof, and all other matters pertaining to the assessment and collection of the duties, stamp duties, licenses, and taxes which may be necessary to carry this act into effect, and with the general superintendence of his office, as aforesaid, and shall have authority, and hereby is authorized and required, to provide proper and sufficient stamps or dies for expressing and denoting the several stamp duties, or the amount thereof in the case of percentage duties, imposed by this act, and to alter and renew or replace such stamps from time to time, as occasion shall require; and the secretary of the treasury may assign to the office of the commissioner of internal revenue such number of clerks as he may deem necessary, or the exigencies of the public service may require, and

the privilege of franking all letters and documents pertaining to the duties of his office, and of receiving, free of postage, all such letters and documents, is hereby extended to said commissioner.

[SEC. 18 (of the act of March 3, '63). *And be it further enacted*, That it shall be the duty of the commissioner of internal revenue to pay over to the treasurer of the United States monthly, or oftener if required by the secretary of the treasury, all public moneys which may come into his hands or possession, for which the treasurer shall give proper receipts and keep a faithful account, and at the end of each month the commissioner, as aforesaid, shall render true and faithful accounts of all public moneys received or paid out, or paid to the treasurer of the United States, exhibiting proper vouchers therefor, and the same shall be received and examined by the fifth auditor of the treasury, who shall thereafter certify the balance, if any, and transmit the accounts, with the vouchers and certificate, to the first comptroller, for his decision thereon; and the commissioner, as aforesaid, when such accounts are settled as herein provided for, shall transmit a copy thereof to the secretary of the treasury. He shall at all times submit to the secretary of the treasury and the comptroller, or either of them, the inspection of moneys in his hands, and shall, prior to the entering upon the duties of his office, execute a bond, with sufficient sureties, to be approved by the secretary of the treasury and by the first comptroller, in a sum of not less than one hundred thousand dollars, payable to the United States, conditioned that said commissioner shall faithfully perform the duties of his office according to law, and shall justly and faithfully account for and pay over to the United States, in obedience to law and in compliance with the order or regulations of the secretary of the treasury, all public moneys which may come into his hands or possession, and for the safekeeping and faithful account of all stamps, adhesive stamps, or vellum, parchment or paper bearing a stamp denoting any duty thereon; which bond shall be filed in the office of the first comptroller of the treasury, and such commissioner shall, from time to time, renew, strengthen, and increase his official bond as the secretary of the treasury may direct.

[SEC. 19. *And be it further enacted*, That the president shall appoint, in the department of the treasury, by and with the advice and consent of the Senate, a competent person, who shall be called the deputy commissioner of internal revenue, with an annual salary of twenty-five hundred dollars, who shall be charged with such duties in the bureau of internal revenue as may be prescribed by the secretary of the treasury, or as may be required by law, and who shall act as commissioner of internal revenue in the absence of that officer, and exercise the privilege of franking all letters and documents pertaining to the office of internal revenue.

[SEC. 20. *And be it further enacted*, That the secretary of the treasury may appoint not exceeding three revenue agents, whose duties shall be, under the direction of the secretary of the treasury, to aid in the prevention, detection, and punishment of frauds upon the revenue, who shall be paid such compensation as the secretary of the treasury may deem just and reasonable, not exceeding two thou-

sand dollars per annum. The above salaries to be paid in the same manner as are other expenses for collecting the revenue.

[**Sec. 21.** *And be it further enacted*, That the president of the United States be and he is hereby authorized to appoint, by and with the advice and consent of the Senate, a competent person, who shall be called the cashier of internal duties, with a salary of twenty-five hundred dollars, who shall have charge of the moneys received in the office of the commissioner of internal revenue, and shall perform such duties as may be assigned to his office by said commissioner, under the regulations of the secretary of the treasury; and before entering upon his duties as cashier, he shall give a bond with sufficient sureties, to be approved by the secretary of the treasury and by the solicitor, that he will faithfully account for all the moneys, or other articles of value, belonging to the United States, which may come into his hands, and perform all the duties enjoined upon his office, according to law and regulations, as aforesaid; which bond shall be deposited with the first comptroller of the treasury.]

#### GENERAL PROVISIONS.

**Sec. 2.** *And be it further enacted*, That, for the purpose of assessing, levying, and collecting the duties or taxes hereinafter prescribed by this act, the president of the United States be, and he is hereby, authorized to divide, respectively, the States and Territories of the United States and the District of Columbia into convenient collection districts, and to nominate, and, by and with the advice and consent of the Senate, to appoint an assessor and a collector for each such district, who shall be residents within the same: *Provided*, That any of said States and Territories and the District of Columbia may, if the president shall deem it proper, be erected into and included in one district: *Provided*, That the number of districts in any State shall not exceed the number of representatives to which such State shall be entitled in the present congress, except in such States as are entitled to an increased representation in the thirty-eighth congress, in which States the number of districts shall not exceed the number of representatives to which any such State may be so entitled: *And provided, further*, That in the State of California the president may establish a number of districts not exceeding the number of senators and representatives to which said State is entitled in the present congress.

**Sec. 3.** *And be it further enacted*, That each of the assessors shall divide his district into a convenient number of assessment districts, subject to such regulations and limitations as may be imposed by the commissioner of internal revenue, within each of which he shall appoint one assistant assessor, who shall be resident therein; and each assessor and assistant assessor so appointed, and accepting the appointment, shall, before he enters on the duties of his appointment, take and subscribe, before some competent magistrate, or some collector, to be appointed by virtue of this act (who is hereby empowered to administer the same), the following oath or affirmation, to wit: "I, A B, do swear, or affirm (as the case may be), that I will bear true

faith and allegiance to the United States of America, and will support the constitution thereof, and that I will, to the best of my knowledge, skill, and judgment, diligently and faithfully execute the office and duties of assessor for (naming the assessment district), without favor or partiality, and that I will do equal right and justice in every case in which I shall act as assessor." And a certificate of such oath or affirmation shall be delivered to the collector of the district for which such assessor or assistant assessor shall be appointed. And every assessor or assistant assessor acting in the said office without having taken the said oath or affirmation, shall forfeit and pay one hundred dollars, one moiety thereof to the use of the United States, and the other moiety thereof to him who shall first sue for the same, with costs of suit.

**Sec. 4.** *And be it further enacted,* That before any such collector shall enter upon the duties of his office, he shall execute a bond for such amount as shall be prescribed by the commissioner of internal revenue, under the direction of the secretary of the treasury, with not less than five sureties, to be approved as sufficient by the solicitor of the treasury, containing the condition that said collector shall faithfully perform the duties of his office according to law, and shall justly and faithfully account for and pay over to the United States, in compliance with the order or regulations of the secretary of the treasury, all public moneys which may come into his hands or possession; which bond shall be filed in the office of the first comptroller of the treasury. And such collectors shall, from time to time, renew, strengthen, and increase their official bond, as the secretary of the treasury may direct.

**Sec. 5.** *And be it further enacted,* That each collector shall be authorized to appoint, by an instrument of writing under his hand, as many deputies as he may think proper, to be by him compensated for their services, and also to revoke any such appointment, giving such notice thereof as the commissioner of internal revenue shall prescribe; and may require bonds or other securities and accept the same from such deputy; and each such deputy shall have the like authority, in every respect, to collect the duties and taxes levied or assessed within the portion of the district assigned to him which is by this act vested in the collector himself; but each collector shall, in every respect, be responsible both to the United States and to individuals, as the case may be, for all moneys collected, and for every act done as deputy collector by any of his deputies whilst acting as such, and for every omission of duty: *Provided,* That nothing herein contained shall prevent any collector from collecting himself the whole or any part of the duties and taxes so assessed and payable in his district.

**Sec. 6.** *And be it further enacted,* That it shall be the duty of any person or persons, partnerships, firms, associations, or corporations, made liable to any duty, license, stamp, or tax imposed by this act, when not otherwise and differently provided for, on or before the first day of August, eighteen hundred and sixty-two, and on or before the first Monday of May in each year thereafter, and in all other cases before the day of levy, to make a list or return to the assistant

assessor of the district where located, of the amount of annual income, the articles or objects charged with a special duty or tax, the quantity of goods, wares, and merchandise made or sold, and charged with a specific or ad valorem duty or tax, the several rates and aggregate amount according to the respective provisions of this act, and according to the forms and regulations to be prescribed by the commissioner of internal revenue, under the direction of the secretary of the treasury, for which such person or persons, partnerships, firms, associations or corporations are liable to be assessed under and by virtue of the provisions of this act.

**Sec. 7.** *And be it further enacted,* That the instructions, regulations, and directions, as hereinbefore mentioned, shall be binding on each assessor and his assistants, and on each collector and his deputies, in the performance of the duties enjoined by or under this act; pursuant to which instructions the said assessors shall, on the first day of August, eighteen hundred and sixty-two, and on the first Monday of May in each succeeding year, and from time to time thereafter, in accordance with this act, direct and cause the several assistant assessors to proceed through every part of their respective districts, and inquire after and concerning all persons being within the assessment districts where they respectively reside, owning, possessing, or having the care or management of any property, goods, wares, and merchandise, articles or objects liable to pay any duty, stamp or tax, including all persons liable to pay a license duty, under the provisions of this act, (by reference as well to any lists of assessment or collection taken under the laws of the respective States, as to any other records or documents, and by all other lawful ways and means, especially to the written list, schedule, or return required to be made out and delivered to the assistant assessor by all persons owning, possessing, or having the care or management of any property, as aforesaid, liable to duty or taxation,) and to value and enumerate the said objects of taxation, respectively, in the manner prescribed by this act, and in conformity with the regulations and instructions before mentioned.

**Sec. 8.** *And be it further enacted,* That if any person owning, possessing, or having the care or management of property, goods, wares, and merchandise, articles or objects liable to pay any duty, tax, or license, shall fail to make and exhibit a written list when required, as aforesaid, and shall consent to disclose the particulars of any and all the property, goods, wares, and merchandise, articles and objects liable to pay any duty or tax, or any business or occupation liable to pay any license, as aforesaid, then, and in that case, it shall be the duty of the officer to make such list, which, being distinctly read, consented to, and signed, by the person so owning, possessing, or having the care and management as aforesaid, shall be received as the list of such person.

**Sec. 9.** *And be it further enacted,* That if any such person shall deliver or disclose to any assessor or assistant assessor appointed in pursuance of this act, and requiring a list or lists, as aforesaid, any false or fraudulent list or statement, with intent to defeat or evade the valuation or enumeration hereby intended to be made, such per-

son so offending, and being thereof convicted on indictment found therefor in any circuit or district court of the United States held in the district in which such offence may be committed, shall be fined in a sum not exceeding five hundred dollars, at the discretion of the court, and shall pay all costs and charges of prosecution; and the valuation and enumeration required by this act shall, in all such cases, and in all cases of undervaluation or understatement in such lists or statements, be made, as aforesaid, upon lists, according to the form prescribed, to be made out by the assessors and assistant assessors, respectively; which lists the said assessors and assistant assessors are hereby authorized and required to make according to the best information they can obtain, and for the purpose of making which they are hereby authorized to enter into and upon all and singular the premises respectively; and from the valuation and enumeration so made there shall be no appeal.

**Sec. 10.** *And be it further enacted*, That in case any person shall be absent from his or her place of residence at the time an assistant assessor shall call to receive the list of such person, it shall be the duty of such assistant assessor to leave at the place of residence of such person, with some person of suitable age and discretion, if such be present, otherwise to deposit in the nearest post office a written note or memorandum, addressed to such person, requiring him or her to present to such assessor the list or lists required by this act within ten days from the date of such note or memorandum. *That whenever any written notice, or other instrument in writing, is required, the same shall be lawful if written or partly written and printed.* (Act of March 3, 1863, § 1.)

**Sec. 11.** *And be it further enacted*, That if any person, on being notified or required, as aforesaid, shall refuse or neglect to give such list or lists within the time required, as aforesaid, it shall be the duty of the assessor for the assessment district within which such person shall reside, and he is hereby authorized and required, to enter in and upon the premises, if it be necessary, of such persons so refusing or neglecting, and to make, according to the best information which he can obtain, and on his own view and information, such lists of property, goods, wares, and merchandise, and all articles or objects liable to duty or taxation, owned or possessed, or under the care or management of such person, as are required by this act, including the amount, if any, due for license; and in case of refusal or neglect to make such lists, except in cases of sickness, the assessors shall thereupon add fifty per centum to the amount of the items thereof; and the lists so made and subscribed by such assessor, shall be taken and reputed as good and sufficient lists of the persons and property for which such person is to be taxed for the purposes of this act; and the person so failing or neglecting, unless in case of sickness or failure to receive the notice, shall, moreover, forfeit and pay the sum of one hundred dollars, except where otherwise provided for, to be recovered for the use of the United States, with costs of suit. *That section eleven be and hereby is amended so as to authorize assistant assessors to perform any duties therein imposed upon assessors.* (Act of March 3, '63, § 1.)

**Sec. 12.** *And be it further enacted*, That whenever there shall be in any assessment district any property, goods, wares, and merchan-

dise, articles, or objects, not owned or possessed by, or under the care or management of, any person or persons within such district, and liable to be taxed as aforesaid, and no list of which shall have been transmitted to the assistant assessor in the manner provided by this act, it shall be the duty of the assistant assessor for such district, and he is hereby authorized and required, to enter into and upon the premises where such property is situated, and take such view thereof as may be necessary, and to make lists of the same, according to the form prescribed, which lists, being subscribed by the said assessor, shall be taken and reputed as good and sufficient lists of such property, goods, wares, and merchandise, articles, or objects, as aforesaid, under and for the purposes of this act.

**Sec. 13.** *And be it further enacted,* That the owners, possessors, or persons having the care or management of property, goods, wares, and merchandise, articles or objects, not lying or being within the assessment district in which they reside, shall be permitted to make out and deliver the lists thereof required by this act (provided the assessment district in which the said objects of duty or taxation are situated is therein distinctly stated) at the time and in the manner prescribed to the assistant assessor of the assessment district wherein such persons reside. And it shall be the duty of the assistant assessor who receives any such list to transmit the same to the assistant assessor where such objects of taxation are situate, who shall examine such list; and if he approves the same, he shall return it to the assistant assessor from whom he received it, with his approval thereof; and if he fails to approve the same, he shall make such alterations therein as he may deem to be just and proper, and shall then return the said list, with such alterations therein or additions thereto, to the assistant assessor from whom he received the said list; and the assistant assessor, where the person liable to pay such tax resides, shall proceed in making the assessment of the tax upon the list by him so received, in all respects as if the said list had been made out by himself.

**Sec. 14.** *And be it further enacted,* That the lists aforesaid shall, where not otherwise specially provided for, be taken with reference to the day fixed for that purpose by this act, as aforesaid, and where duties accrue at other and different times, the lists shall be taken with reference to the time when said duties become due; and the assistant assessors, respectively, after collecting the said lists, shall proceed to arrange the same, and to make two general lists—the first of which shall exhibit, in alphabetical order, the names of all persons liable to pay any duty, tax, or license under this act residing within the assessment district, together with the value and assessment, or enumeration, as the case may require, of the objects liable to duty or taxation within such district for which each such person is liable, or for which any firm, company, or corporation is liable, with the amount of duty or tax payable thereon; and the second list shall exhibit, in alphabetical order, the names of all persons residing out of the collection district, owners of property within the district, together with the value and assessment or enumeration thereof, as the case may be, with the amount of duty or tax payable thereon as aforesaid. The



forms of the said general list shall be devised and prescribed by the assessor, under the direction of the commissioner of internal revenue, and lists taken according to such forms shall be made out by the assistant assessors and delivered to the assessor within thirty days after the day fixed by this act as aforesaid, requiring lists from individuals; or where duties, licenses, or taxes accrue at other and different times, the lists shall be delivered from time to time as they become due. And if any assistant assessor shall fail to perform any duty assigned by this act within the time prescribed by his precept, warrant, or other legal instructions, not being prevented therefrom by sickness or other unavoidable accident, every such assistant assessor shall be discharged from office, and shall, moreover, forfeit and pay two hundred dollars, to be recovered for the use of the United States, with costs of suit.

**Sec. 15.** *And be it further enacted,* That the assessors for each collection district shall, by advertisement in some public newspaper published in each county within said district, if any such there be, and by written or printed notifications, to be posted up in at least four public places within each assessment district, advertise all persons concerned of the time and place within said county when and where the lists, valuations, and enumerations made and taken within said county may be examined; and said lists shall remain open for examination for the space of fifteen days after notice shall have been given as aforesaid. And said notifications shall also state when and where within said county, after the expiration of said fifteen days, appeals will be received and determined relative to any erroneous or excessive valuations or enumerations by the assistant assessors. And it shall be the duty of the assessor for each collection district, at the time fixed for hearing such appeal as aforesaid, to submit the proceedings of the assistant assessors, and the lists taken and returned as aforesaid, to the inspection of any and all persons who may apply for that purpose. And the said assessor for each collection district is hereby authorized, at any time within fifteen days from and after the expiration of the time allowed for notification as aforesaid, to hear and determine, in a summary way, according to law and right, upon any and all appeals which may be exhibited against the proceedings of the said assistant assessors: *Provided,* That the question to be determined by the assessor, on an appeal respecting the valuation or enumeration of property, or objects liable to duty or taxation, shall be, whether the valuation complained of be or be not in a just relation or proportion to other valuations in the same assessment district, and whether the enumeration be or be not correct. And all appeals to the assessor, as aforesaid, shall be made in writing, and shall specify the particular cause, matter, or thing respecting which a decision is requested; and shall, moreover, state the ground or principle of inequality or error complained of. And the assessor shall have power to re-examine and equalize the valuations as shall appear just and equitable; but no valuation or enumeration shall be increased without a previous notice, of at least five days, to the party interested, to appear and object to the same, if he judge proper; which notice shall be given by a note in writing, to be left at the dwelling-house, office,

or place of business of the party by such assessor or an assistant assessor.

**Sec. 16.** *And be it further enacted,* That the said assessors of each collection district, respectively, shall, immediately after the expiration of the time for hearing appeals, and, from time to time, as duties, taxes, or licenses become liable to be assessed, make out lists containing the sums payable according to the provisions of this act upon every object of duty or taxation in and for each collection district, which lists shall contain the name of each person residing within the said district, owning or having the care or superintendence of property lying within the said district which is liable to the said tax, or engaged in any business or pursuit requiring a license, when such person or persons are known, together with the sums payable by each; and where there is any property within any collection district, liable to the payment of the said duty or tax, not owned or occupied by or under the superintendence of any person resident therein, there shall be a separate list of such property, specifying the sum payable, and the names of the respective proprietors, where known. And the assistant assessor making out any such separate list shall transmit therefrom to the assistant assessor, where the persons liable to pay such tax reside or shall have their principal place of business, copies of the list of property held by persons so liable to pay such tax, to the end that the taxes assessed under the provisions of this act may be paid within the collection district where the persons liable to pay the same reside, or may have their principal place of business. And in all other cases the said assessor shall furnish to the collectors of the several collection districts, respectively, within ten days after the time of hearing appeals, and from time to time thereafter as required, a certified copy of such list or lists for their proper collection districts; and in default of performance of the duties enjoined upon assessors by this section, they shall severally and individually forfeit and pay the sum of five hundred dollars to the use of the United States, and, moreover, shall forfeit their compensation as assessors: *Provided,* That it shall be in the power of the commissioner of internal revenue to exonerate any assessor as aforesaid from such forfeitures, in whole or in part, as to him shall appear just and equitable.

**Sec. 17.** *And be it further enacted,* That there shall be allowed and paid to the several assessors and assistant assessors, for their services under this act—to each assessor three dollars per day for every day employed in making the necessary arrangements and giving the necessary instructions to the assistant assessors for the valuation; and five dollars per day for every day employed in hearing appeals, revising valuations, and making out lists agreeably to the provisions of this act; and one dollar for every hundred taxable persons contained in the tax list, as delivered by him to said collectors, and forwarded to the commissioner of internal revenue; to each assistant assessor three dollars for every day actually employed in collecting lists and making valuations, the number of days necessary for that purpose to be certified by the assessor and approved by the commissioner of internal revenue; and one dollar for every hundred taxable persons contained in the tax list, as completed and delivered by him to the assessor.

And the said assessors and assistant assessors, respectively, shall also be allowed their necessary and reasonable charges for stationery and blank books used in the execution of their duties, and the compensation herein specified shall be in full for all expenses not otherwise particularly authorized: *Provided*, The secretary of the treasury shall be, and he is hereby, authorized to fix such additional rates of compensation to be made to assessors and assistant assessors in the States of California and Oregon and the Territories as may appear to him to be just and equitable, in consequence of the greater cost of living and traveling in those States and Territories, and as may, in his judgment, be necessary to secure the services of competent and efficient men, provided the rates of compensation thus allowed shall not exceed the rates paid to similar officers in such States and Territories respectively. In cases where a collection district embraces more than a single congressional district, the secretary of the treasury may allow the assessor such compensation as he may deem necessary.

[Sec. 22 (of the act of March 3, '68). *And be it further enacted*, That in lieu of the pay allowed by law, the several assessors, from the date of their appointment, shall be allowed and paid a salary of fifteen hundred dollars per annum, payable quarterly, and in addition thereto, where the receipts of the collection district shall exceed the sum of two hundred thousand dollars, and shall not exceed the sum of four hundred thousand dollars annually, one half of one per centum upon the excess of receipts over two hundred thousand dollars; where the receipts of a collection district shall exceed four hundred thousand dollars, and shall not exceed eight hundred thousand, one fourth of one per centum upon the excess of receipts over four hundred thousand dollars; where the receipts shall exceed eight hundred thousand dollars, one tenth of one per centum upon such excess; but the salary of no assessor shall in any case exceed the sum of three thousand dollars. And the several assessors shall be allowed and paid the sums actually expended for office rent, not exceeding the rate of five hundred dollars per annum. The commissioner of internal revenue, under the direction of the secretary of the treasury, is authorized to allow each assessor such clerks as he may deem necessary for the proper transaction of business, and to fix their compensation. Such assessors shall also be allowed their necessary and reasonable charges for postage actually paid on letters and documents received or sent, and exclusively relating to official business, and for stationery and blank books used in the execution of their duties, and the compensation herein specified shall be in full for all expenses not otherwise particularly authorized. And assistant assessors shall, in addition to pay and charges allowed by law, also be allowed their necessary and reasonable charges for postage actually paid on letters and documents received or sent, and exclusively relating to official business: *Provided*, That the secretary of the treasury shall be and he is hereby authorized to fix such additional rates of compensation to be made to assessors and assistant assessors in the States of California and Oregon, and the Territories, as may appear to him to be just and equitable in consequence of the greater cost of living and traveling in those States and Territories, and as may, in his judgment, be necessary to secure

the services of competent and efficient men: *Provided, further*, That the rates of compensation thus allowed shall not exceed the rates paid to similar officers in such States and Territories, respectively.

[**Sec. 23.** *And be it further enacted*, That assistant assessors shall make out their accounts for pay and charges allowed by law monthly, specifying each item and including the date of each day of service, and shall transmit the same to the assessor of the district, who shall thereupon examine the same, and if it appear just and in accordance with law, he shall endorse his approval thereon, but otherwise shall return the same with objections. Any such account so approved may be presented by the assistant assessor to the collector of the district for payment, who shall thereupon pay the same, and when receipted by the assistant assessor, be allowed therefor upon presentation to the commissioner of internal revenue. Where any account so transmitted to the assessor shall be objected to, in whole or in part, the assistant assessor may appeal to the commissioner of internal revenue, whose decision on the case shall be final; and should it appear at any time that any assessor has wilfully and corruptly approved any account as aforesaid, allowing any assistant assessor a sum larger than was due according to law, it shall be the duty of the commissioner of internal revenue, upon proper proof thereof, to deduct the sum so allowed from any pay which may be due to such assessor; or the commissioner as aforesaid may direct a suit to be brought in any court of competent jurisdiction against the assessor or assistant assessor in default, for the recovery of the amount wilfully and corruptly allowed, as hereinbefore mentioned.]

**Sec. 18.** *And be it further enacted*, That each collector, on receiving a list, as aforesaid, and from time to time as such lists may be received from the said assessors, respectively, shall subscribe three receipts; one of which shall be given on a full and correct copy of such list, which list shall be delivered by him to, and shall remain with, the assessor of his collection district, and shall be open to the inspection of any person who may apply to inspect the same; and the other two receipts shall be given on aggregate statements of the lists aforesaid, exhibiting the gross amount of taxes to be collected in his collection district, one of which aggregate statements and receipts shall be transmitted to the commissioner of internal revenue, and the other to the first comptroller of the treasury; and all lists received from time to time, as aforesaid, shall be in like form and manner transmitted as aforesaid.

**Sec. 19.** *And be it further enacted*, That each of said collectors shall, within ten days after receiving his annual collection list from the assessors, respectively, as aforesaid, give notice, by advertisement published in each county in his collection district, in one newspaper printed in such county, if any such there be, and by notifications to be posted up in at least four public places in each county in his collection district, that the said duties have become due and payable, and state the time and place within said county at which he will attend to receive the same, which time shall not be less than ten days after such notification; and all persons who shall neglect to pay the duties and taxes as aforesaid assessed upon them to the collector within the time speci-

fied, shall be liable to pay ten per centum additional upon the amount thereof, the fact of which liability shall be stated in the advertisement and notifications aforesaid. And with regard to all persons who shall neglect to pay as aforesaid, it shall be the duty of the collector, in person or by deputy, within twenty days after such neglect, to make a demand personally, or at the dwellings or usual places of business of such persons, if any they have, for payment of said duties or taxes, with the ten per centum additional aforesaid. And with respect to all such duties or taxes as are not included in the annual lists aforesaid, and all taxes and duties the collection of which is not otherwise provided for in this act, it shall be the duty of each collector, in person or by deputy, to demand payment thereof, in manner aforesaid, within ten days from and after receiving the list thereof from the assessor; and if the annual and other duties shall not be paid within ten days from and after such demand therefor, it shall be lawful for such collector or his deputies to proceed to collect the said duties or taxes, with ten per centum additional thereto, as aforesaid, by distraint and sale of the goods, chattels, or effects of the persons delinquent as aforesaid. And in case of such distraint it shall be the duty of the officer charged with the collection to make, or cause to be made, an account of the goods or chattels which may be distrained, a copy of which, signed by the officer making such distraint, shall be left with the owner or possessor of such goods, chattels, or effects, or at his or her dwelling, with some person of suitable age and discretion, with a note of the sum demanded, and the time and place of sale; and the said officer shall forthwith cause a notification to be published in some newspaper within the county wherein said distraint is made, if there is a newspaper published in said county, or to be publicly posted up at the post office, if there be one within five miles, nearest to the residence of the person whose property shall be distrained, and in not less than two other public places, which notice shall specify the articles distrained, and the time and place for the sale thereof, which time shall not be less than ten, nor more than twenty, days from the date of such notification, and the place proposed for sale not more than five miles distant from the place of making such distraint: *Provided*, That in any case of distraint for the payment of the duties or taxes aforesaid, the goods, chattels or effects so distrained shall and may be restored to the owner or possessor, if prior to the sale payment of the amount due, or tender thereof, shall be made to the proper officer charged with the collection of the full amount demanded, together with such fee for levying, and such sum for the necessary and reasonable expense of removing, advertising, and keeping the goods, chattels, or effects so distrained as may be prescribed by the commissioner of internal revenue; but in case of non-payment or tender, as aforesaid, the said officers shall proceed to sell the said goods, chattels, or effects at public auction, and shall and may retain from the proceeds of such sale the amount demandable for the use of the United States, with the necessary and reasonable expenses of distraint and sale, and a commission of five per centum thereon for his own use, rendering the overplus, if any there be, to the person whose goods, chattels, or effects shall have been distrained: *Provided*, That there shall be ex-

empt from distraint the tools or implements of a trade or profession, one cow, arms, and provisions, and household furniture kept for use, and apparel necessary for a family. *That section nineteen be so amended that the deputy collector, as well as the collector, may perform all the duties required of the said collector in the said section; and any notice required by said section to persons who neglect to pay their taxes may be sent by mail, or left at the dwellings or usual places of business of such persons, if any they have, written or printed, and said notice shall state the amount of duty or tax for which such persons are liable, including the ten per centum additional, as provided for in said section, demanding payment of the same; and with respect to all such duties or taxes as are not included in the annual lists as provided for in said section, and all taxes and duties the collection of which is not otherwise provided for in said act, it shall be the duty of each collector in person or by deputy to demand payment therefor in the manner provided, within ten days from and after the expiration of the time within which such duty or tax should have been paid; and any copy of distraint shall be left at the dwelling or usual place of business of the owner or possessor of the property distrained: Provided, That such special demand shall not be necessary in respect to taxes assessed by section seventy-seven of said act.*

**Sec. 20.** *And be it further enacted, That in all cases where the property liable to distraint for duties or taxes under this act may not be divisible, so as to enable the collector by a sale of part thereof to raise the whole amount of the tax, with all costs, charges, and commissions, the whole of such property shall be sold, and the surplus of the proceeds of the sale, after satisfying the duty or tax, costs, and charges, shall be paid to the owner of the property, or his, her, or their legal representatives, or if he, she, or they cannot be found, or refuse to receive the same, then such surplus shall be deposited in the treasury of the United States, to be there held for the use of the owner, or his, her, or their legal representatives, until he, she, or they shall make application therefor to the secretary of the treasury, who, upon such application, shall, by warrant on the treasury, cause the same to be paid to the applicant. And if the property advertised for sale as aforesaid cannot be sold for the amount of the duty or tax due thereon, with the costs and charges, the collector shall purchase the same in behalf of the United States for an amount not exceeding the said tax or duty, with the costs and charges thereon. And all property so purchased may be sold by said collector under such regulations as may be prescribed by the commissioner of internal revenue. And the collector shall render a distinct account of all charges incurred in the sale of such property, and shall pay into the treasury the surplus, if any there be, after defraying the charges.*

**Sec. 21.** *And be it further enacted, That in any case where goods, chattels, or effects sufficient to satisfy the duties imposed by this act upon any person liable to pay the same, shall not be found by the collector or deputy collector whose duty it may be to collect the same, he is hereby authorized to collect the same by seizure and sale of real estate; and the officer making such seizure and sale shall give notice to the person whose estate is proposed to be sold, by giving him in hand, or leaving at his last and usual place of abode, if he has*

any such within the collection district where said estate is situated, a notice in writing, stating what particular estate is proposed to be sold, describing the same with reasonable certainty, and the time when and place where said officer proposes to sell the same; which time shall not be less than ten nor more than twenty days from the time of giving said notice; and the said officer shall also cause a notification to the same effect to be published in some newspaper within the county where such seizure is made, if any such there be, and shall also cause a like notice to be posted up at the post-office nearest to the place of residence of the person whose estate shall be so seized, and in two other public places within the county; and the place of said sale shall not be more than five miles distant from the estate seized. At the time and place appointed, the officer making such seizure shall proceed to sell the said estate at public auction, offering the same at a minimum price, including the amount of duties with the ten per centum additional thereon, and all charges for advertising, and an officer's fee of ten dollars. And if no person offers for said estate the amount of said minimum, the officer shall declare the same to be purchased by him for the United States, and shall deposit with the district attorney of the United States a deed thereof, as hereinafter specified and provided; otherwise the same shall be declared to be sold to the highest bidder. And said sale may be adjourned by said officer for a period not exceeding five days, if he shall think it advisable so to do. If the amount bid shall not be then and there paid, the officer shall forthwith proceed to again sell said estate in the same manner. If the amount bid shall be then and there paid, the officer shall give his receipt thereof, if requested, and within five days thereafter he shall make out a deed of the estate so sold to the purchaser thereof, and execute the same in his official capacity, in the manner prescribed by the laws of the State in which said estate may [be] situated, in which said deed shall be recited the fact of said seizure and sale with the cause thereof, the amount of duty for which said sale was made, and of all charges and fees, and the amount paid by the purchaser, and all his acts and doings in relation to said seizure and sale, and shall have the same ready for delivery to said purchaser, and shall deliver the same accordingly, upon request therefor. And said deed shall be prima facie evidence of the truth of the facts stated therein; and if the proceedings of the officer as set forth have been substantially in pursuance of the provisions of this act, shall be considered and operate as a conveyance to the purchaser of the title to said estate, but shall not affect the rights of third persons acquired previously to the claim of the United States under this act. The surplus, if any, arising from such sale shall be disposed of as provided in this act for like cases arising upon sales of personal property. And any person whose estate may be seized for duties, as aforesaid, shall have the same right to pay or tender the amount due, with all proper charges thereon, prior to the sale thereof, and thereupon to relieve his said estate from sale, as aforesaid, as is provided in this act for personal property similarly situated. And any collector or deputy collector may, for the collection of duties imposed upon any person by this act, and committed to him for collection, seize and sell the lands of such person situated in any

other collection district within the State in which said officer resides; and his proceedings in relation thereto shall have the same effect as if the same were had in his proper collection district; and the owners, their heirs, executors, or administrators, or any person having an interest therein, or any person on their behalf, shall have liberty to redeem the land sold as aforesaid, within one year from and after recording the said deed, upon payment to the purchaser, or in case he cannot be found in the county where the lands are situate, to the collector for the use of the purchaser, his heirs, or assigns, of the amount paid by the purchaser, with interest on the same at the rate of twenty per centum per annum. And it shall be the duty of every collector to keep a record of all sales of land made in his collection district, whether by himself or his deputies, in which shall be set forth the tax for which any such sale was made, the dates of seizure and sale, the name of the party assessed, and all proceedings in making said sale, the amount of fees and expenses, the name of the purchaser, and the date of the deed; which record shall be certified by the officer making the sale. And it shall be the duty of any deputy making sale, as aforesaid, to return a statement of all his proceedings to the collector, and to certify the record thereof. And in case of the death or removal of the collector, or the expiration of his term of office from any other cause, said record shall be deposited in the office of the clerk of the district court of the United States for the district within which the said collector resided; and a copy of every such record, certified by the collector, or by the clerk, as the case may require, shall be evidence in any court of the truth of the facts therein stated. And when any lands sold, as aforesaid, shall be redeemed as hereinbefore provided, the collector or clerk, as the case may be, shall make an entry of the fact upon the record aforesaid, and the said entry shall be evidence of such redemption. And the claim of the Government to lands sold under and by virtue of the foregoing provisions shall be held to have accrued at the time of seizure thereof.

**Sec. 22.** *And be it further enacted,* That if any collector shall find upon any lists of taxes returned to him for collection, property lying within his district which is charged with any specific or ad valorem tax or duty, but which is not owned, occupied, or superintended by some person known to such collector to reside or to have some place of business within the United States, such collector shall forthwith take such property into his custody, and shall advertise the same, and the tax charged upon the same, in some newspaper published in his district, if any shall be published therein, otherwise in some newspaper in an adjoining district, for the space of thirty days; and if the taxes thereon, with all charges for advertising, shall not be paid within said thirty days, such collector shall proceed to sell the same, or so much as is necessary, in the manner provided for the sale of other goods distrained for the non-payment of taxes, and out of the proceeds shall satisfy all taxes charged upon such property, with the costs of advertising and selling the same. And like proceedings to those provided in the preceding section for the purchase and resale of property which cannot be sold for the amount of duty or tax due thereon shall be had with regard to property sold under the provisions of this section.



And any surplus arising from any sale herein provided for shall be paid into the treasury, for the benefit of the owner of the property. And the secretary of the treasury is authorized, in any case where money shall be paid into the treasury for the benefit of any owner of property sold as aforesaid, to repay the same, on proper proof being furnished that the person applying therefor is entitled to receive the same.

**Sec. 23.** *And be it further enacted,* That the several collectors shall, at the expiration of each and every month, after they shall, respectively, commence their collections, transmit to the commissioner of internal revenue a statement of the collections made by them, respectively, within the month, and pay over monthly, or at such time or times as may be required by the commissioner of internal revenue, the moneys by them respectively collected within the said term, and at such places as may be designated and required by the commissioner of internal revenue; and each of the said collectors shall complete the collection of all sums annually assigned to him for collection, as aforesaid, shall pay over the same into the treasury, and shall render his final account to the treasury department as often as he may be required, and within six months from and after the day when he shall have received the collection lists from the said assessors or assistant assessors, as aforesaid. And the secretary of the treasury is authorized to designate one or more depositories in each State, for the deposit and safe-keeping of the moneys collected by virtue of this act; and the receipt of the proper officer of such depository to a collector for the money deposited by him shall be a sufficient voucher for such collector in the settlement of his accounts at the treasury department; and the commissioner of internal revenue may, under the direction of the secretary of the treasury, prescribe such regulations with reference to such deposits as he may deem necessary.

**Sec. 24.** *And be it further enacted,* That each collector shall be charged with the whole amount of taxes by him receipted, whether contained in lists delivered to him by the assessors, respectively, or delivered or transmitted to him by assistant assessors from time to time, or by other collectors; and shall be credited with the amount of duties or taxes contained in the lists transmitted in the manner above provided to other collectors, and by them receipted as aforesaid; and also for the duties or taxes of such persons as may have absconded, or become insolvent, prior to the day when the duty or tax ought, according to the provisions of this act, to have been collected: *Provided,* That it shall be proved to the satisfaction of the first comptroller of the treasury that due diligence was used by the collector, and that no property was left from which the duty or tax could have been recovered. And each collector shall also be credited with the amount of all property purchased by him for the use of the United States, provided he shall faithfully account for, and pay over, the proceeds thereof upon a resale of the same as required by this act.

**Sec. 25.** *And be it further enacted,* That if any collector shall fail either to collect or to render his account, or to pay over in the manner or within the times hereinbefore provided, it shall be the duty of the first comptroller of the treasury, and he is hereby authorized

and required, immediately after such delinquency, to report the same to the solicitor of the treasury, who shall issue a warrant of distress against such delinquent collector and his sureties, directed to the marshal of the district, therein expressing the amount of the taxes with which the said collector is chargeable, and the sums, if any, which have been paid. And the said marshal shall, himself, or by his deputy, immediately proceed to levy and collect the sum which may remain due, by distress and sale of the goods and chattels, or any personal effects of the delinquent collector, giving at least five days' notice of the time and place of sale, in the manner provided by law for advertising sales of personal property on execution in the State wherein such collector resides; and, furthermore, if such goods, chattels, and effects cannot be found sufficient to satisfy the said warrant, the said marshal or his deputy shall and may proceed to levy and collect the sum which remains due, by distress and sale of the goods and chattels, or any personal effects, of the surety or sureties of the delinquent collector, giving notice as hereinbefore provided. And the bill of sale of the officer of any goods, chattels, or other personal property, distrained and sold as aforesaid, shall be conclusive evidence of title to the purchaser, and prima facie evidence of the right of the officer to make such sale, and of the correctness of his proceedings in selling the same. And for want of goods and chattels, or other personal effects of such collector or his sureties, sufficient to satisfy any warrant of distress, issued pursuant to the preceding section of this act, the lands and real estate of such collector and his sureties, or so much thereof as may be necessary for satisfying the said warrant, after being advertised for at least three weeks in not less than three public places in the collection district, and in one newspaper printed in the county or district, if any there be, prior to the proposed time of sale, may and shall be sold at public auction by the marshal or his deputy, who, upon such sale, shall, as such marshal or deputy marshal, make and deliver to the purchaser of the premises so sold a deed of conveyance thereof, to be executed and acknowledged in the manner and form prescribed by the laws of the State in which said lands are situated, which said deed so made shall invest the purchaser with all the title and interest of the defendant or defendants named in said warrant existing at the time of seizure thereof. And all moneys that may remain of the proceeds of such sale after satisfying the said warrant of distress, and paying the reasonable costs and charges of sale, shall be returned to the proprietor of the lands or real estate sold as aforesaid.

**Sec. 26.** *And be it further enacted,* That each and every collector, or his deputy, who shall exercise or be guilty of any extortion or wilful oppression, under color of this act, or shall knowingly demand other or greater sums than shall be authorized by this act, shall be liable to pay a sum not exceeding double the amount of damages accruing to the party injured, to be recovered by and for the use of the party injured, with costs of suit, and shall be dismissed from office, and be disqualified from holding such office thereafter; and each and every collector, or his deputies, shall give receipts for all sums by them collected and retained in pursuance of this act,

**Sec. 27.** *And be it further enacted,* That a collector or deputy collector, assessor or assistant assessor, shall be authorized to enter, in the daytime, any brewery, distillery, manufactory, building, or place where any property, articles, or objects, subject to duty or taxation under the provisions of this act, are made, produced, or kept, within his district, so far as it may be necessary for the purpose of examining said property, articles, or objects, or inspecting the accounts required by this act from time to time to be made. And every owner of such brewery, distillery, manufactory, building, or place, or persons having the agency or superintendence of the same, who shall refuse to admit such officer, or to suffer him to examine said property, articles, or objects, or to inspect said accounts, shall, for every such refusal, forfeit and pay the sum of five hundred dollars.

**Sec. 28.** *And be it further enacted,* That if any person shall forcibly obstruct or hinder a collector or deputy collector in the execution of this act, or of any power and authority hereby vested in him, or shall forcibly rescue, or cause to be rescued, any property, articles, or objects, after the same shall have been seized by him, or shall attempt or endeavor so to do, the person so offending shall, for every such offence, "*upon conviction thereof by a court of competent jurisdiction, forfeit and pay the sum of \$500, or be imprisoned for a term not exceeding two years, at the discretion of the court.*" (As amended, act of March 3, '63, § 1.)

**Sec. 29.** *And be it further enacted,* That in case of the sickness or temporary disability of a collector to discharge such of his duties as cannot under existing laws be discharged by a deputy, they may be devolved by him upon one of his deputies: *Provided,* That information thereof be immediately communicated to the secretary of the treasury, and shall not be disapproved by him: *And provided, further,* That the responsibility of the collector or his sureties to the United States shall not be affected or impaired thereby.

**Sec. 30.** *And be it further enacted,* That in case a collector shall die, resign, or be removed, the deputies of such collector shall continue to act until their successors are appointed; and the deputy of such collector longest in service at the time immediately preceding may and shall, until a successor shall be appointed, discharge all the duties of said collector; and for the official acts and defaults of such deputy a remedy shall be had on the official bond of the collector, as in other cases; and of two or more deputy collectors, appointed on the same day, the one residing nearest the residence of the collector at the time of his death, resignation, or removal, shall in like manner discharge the said duties until the appointment of a successor; and any bond or security taken of such deputy by such collector, pursuant to the fifth section of this act, shall be available to his heirs or representatives to indemnify them for loss or damage accruing from any act of the proper deputy so continuing or so succeeding to the duties of such collector.

**Sec. 31.** *And be it further enacted,* That it shall be the duty of the collectors aforesaid, or their deputies, in their respective districts, and they are hereby authorized, to collect all the duties and taxes imposed by this act, however the same may be designated, and to prose-

ente for the recovery of the same, and for the recovery of any sum or sums which may be forfeited by virtue of this act; and all fines, penalties, and forfeitures which may be incurred or imposed by virtue of this act shall and may be sued for and recovered, in the name of the United States, or of the collector within whose district any such fine, penalty, or forfeiture shall have been incurred, in any proper form of action, or by any appropriate form of proceeding, before any circuit or district court of the United States for the district within which said fine, penalty, or forfeiture may have been incurred, or before any other court of competent jurisdiction; and where not otherwise and differently provided for, one moiety thereof shall be to the use of the United States, and the other moiety thereof to the use of the person who, if a collector or deputy collector, shall first inform of the cause, matter, or thing whereby any such fine, penalty, or forfeiture was incurred.

**Sec. 32.** *And be it further enacted,* That if any person, in any case, matter, hearing, or other proceeding in which an oath or affirmation shall be required to be taken or administered under and by virtue of this act, shall, upon the taking of such oath or affirmation, knowingly and willingly swear or affirm falsely, every person so offending shall be deemed guilty of perjury, and shall, on conviction thereof, be subject to the like punishment and penalties now provided by the laws of the United States for the crime of perjury.

**Sec. 33.** *And be it further enacted,* That separate accounts shall be kept at the treasury of all moneys received from internal duties or taxes in each of the respective States, Territories, and collection districts; and that separate accounts shall be kept of the amount of each species of duty or tax that shall accrue, so as to exhibit, as far as may be, the amount collected from each source of revenue, with the moneys paid to the collectors and deputy collectors, and to the other officers employed in each of the respective States, Territories, and collection districts, an abstract in tabular form of which accounts it shall be the duty of the secretary of the treasury, annually, in the month of December, to lay before congress.

**Sec. 34.** *And be it further enacted,* That there shall be allowed to the collectors appointed under this act, in full compensation for their services and that of their deputies in carrying this act into effect, a commission of four per centum upon the first hundred thousand dollars, and two per centum upon all sums above one hundred thousand dollars; such commissions to be computed upon the amounts by them respectively paid over and accounted for under the instructions of the Treasury Department: *Provided,* That in no case shall such commissions exceed the sum of ten thousand dollars per annum, except as hereinafter provided. And there shall be further allowed to each collector his necessary and reasonable charges for stationery and blank books used in the performance of his official duties, which, after being duly examined and certified by the commissioner of internal revenue, shall be paid out of the treasury: *Provided,* That the secretary of the treasury be authorized to make such further allowance as may be reasonable in cases in which, from the territorial extent of the district or from the amount of internal duties collected, it may seem

just to make such allowance ; but the whole compensation shall not exceed ten thousand dollars, except in collection districts embracing more than one congressional district.

[Sec. 17 (of the act of March 3, '68). *And be it further enacted*, That, in addition to the compensation now allowed to collectors for their services, and that of their deputies, there shall be allowed their necessary and reasonable charges for postage actually paid on letters and documents received or sent and exclusively relating to official business ; and in calculating the commissions of collectors of internal revenue in districts whence distilled spirits are shipped to be sold in other districts in pursuance of the provisions of the act to which this act is an amendment, the amount of duties due on the quantity of spirits so shipped shall be added to the principal on which the commissions of such collectors are calculated, and a corresponding amount shall be deducted from the principal sum on which the commissions of the collectors in the districts to which such spirits are shipped are calculated: *Provided, however*, That the salary of no collector shall exceed ten thousand dollars in the aggregate, or more than five thousand dollars exclusive of the expenses of administering the office.]

**Sec. 35.** *And be it further enacted*, That when any duty or tax shall have been paid by levy and distraint, any person or persons or party who may feel aggrieved thereby may apply to the assessor of the district for relief, and exhibit such evidence as he, she, or they may have of the wrong done, or supposed to have been done, and after a full investigation the assessor shall report the case, with such parts of the evidence as he may judge material, including also such as may be regarded material by the party aggrieved, to the commissioner of internal revenue, who may, if it shall be made to appear to him that such duty or tax was levied or collected, in whole or in part, wrongfully or unjustly, certify the amount wrongfully and unjustly levied or collected, and the same shall be refunded and paid to the person or persons or party as aforesaid, from any moneys in the treasury not otherwise appropriated, upon the presentation of such certificate to the proper officer thereof.

**Sec. 36.** *And be it further enacted*, That in all cases of distraint and sale of goods, or chattels, for non-payment of taxes provided for in this act, the bill of sale of such goods or chattels given by the officer making such sale to the purchaser thereof shall be conclusive evidence of the right of the officer to make such sale, and of the correctness of his proceedings in selling the same.

**Sec. 37.** *And be it further enacted*, That if for any cause, at any time after this act goes into operation, the laws of the United States cannot be executed in a State or Territory of the United States, or any part thereof, or within the District of Columbia, it shall be the duty of the president, and he is hereby authorized, to proceed to execute the provisions of this act within the limits of such State or Territory, or part thereof, or District of Columbia, so soon as the authority of the United States therein shall be re-established, and to collect the sums which would have been due from the persons residing or holding property, goods, wares, or merchandise, object or article therein liable to any duty, license, or tax, with interest at the rate of six per

centum per annum thereon from the time such duty, license, or tax ought to have been paid until paid in the manner and under the regulations prescribed in this act, so far as applicable, and where not applicable the assessment and levy shall be made and the time and manner of collection regulated by the instructions and directions of the commissioner of internal revenue, under the direction of the secretary of the treasury.

**Sec. 38.** *And be it further enacted,* That the officers who may be appointed under this act, except within those districts within any State or Territory which have been or may be otherwise specially provided for by law, shall be, and hereby are, authorized, in all cases where the payment of such tax has not been assumed by the State, to perform all the duties relating to or regarding the assessment and collection of the direct tax imposed by an act entitled "An act to provide increased revenue from imports to pay interest on the public debt, and for other purposes," approved August fifth, eighteen hundred and sixty-one, or any direct tax which may be hereafter enacted: *Provided,* That the sum of nineteen thousand three hundred and twelve dollars, direct tax, laid upon the Territory of Nebraska by said act, shall be paid and satisfied by deducting said amount from the appropriation for legislative expenses of the Territory of Nebraska for the year ending thirtieth of June, eighteen hundred and sixty-three, and no further claim shall be made by said Territory for legislative expenses for said year: *Provided, further,* That the State of Tennessee shall have until the first day of December next to assume the payment of her portion of said tax.

#### SPIRITS, ALE, BEER, AND PORTER.

**Sec. 39.** *And be it further enacted,* That it shall be the duty of the collectors, within their respective districts, to grant licenses for distilling, which licenses shall contain the date thereof, the sum paid, and the time when the same will expire, and shall be granted to any person, being a resident of the United States, who shall desire the same, by application, in writing, to such collector, upon payment of the sum or duty payable by this act upon each license requested. And at the time of applying for said license, and before the same is issued, the person so applying shall give bond to the United States in such sum as shall be required by the collector, and with one or more sureties, to be approved by said collector, conditioned that in case any additional still or stills, or other implements to be used as aforesaid, shall be erected by him, his agent or superintendent, he will, before using, or causing or permitting the same to be used, report in writing to the said collector the capacity thereof, and information from time to time of any change in the form, capacity, ownership, agency, or superintendence, which all or either of the said stills or other implements may undergo; and that he will, from day to day, enter, or cause to be entered, in a book to be kept for that purpose, the number of gallons of spirits that may be distilled by said still or stills, or other implements, and also of the quantities of grain or other vegetable productions, or other substances put into the mash tub, or

otherwise used by him, his agent or superintendent, for the purpose of producing spirits, which said book shall be open at all times during the day (Sundays excepted) to the inspection of the said collector, who may make any memorandums or transcripts therefrom; and that he will render to the said collector, on the first, tenth, and twentieth days of each and every month, or within five days thereafter, during the continuance of said license, an exact account, in writing, taken from his books, of the number of gallons of spirits distilled and sold, or removed for consumption or sale, by him, his agent, or superintendent, and the proof thereof, and also of the quantities of grain or other vegetable productions, or other substances, put into the mash tub, or otherwise used by him, his agent, or superintendent, for the purpose of producing spirits, for the period or fractional part of a month then next preceding the date of said report, which said report shall be verified by affidavit in the manner prescribed by this act; and that he will not sell or permit to be sold, or removed for consumption or sale, any spirits distilled by him under and by virtue of his said license, until the same shall have been inspected, gauged, and proved, and the quantity thereof duly entered upon his books as aforesaid; and that he will, at the time of rendering said account, pay to the said collector the duties which by this act are imposed on the spirits so distilled; and the said bond may be renewed or changed, from time to time, in regard to the amount and sureties thereof, according to the discretion of the collector.

**Sec. 40.** *And be it further enacted,* That the application in writing made by any person for a license for distilling, as aforesaid, shall state the place of distilling, the number and capacity of the still or stills, boiler or boilers, and the name of the person, firm, company, or corporation using the same; and any person making a false statement in either of the said particulars shall forfeit and pay the sum of one hundred dollars, to be recovered with costs of suit.

**Sec. 41.** *And be it further enacted,* That, in addition to the duties payable for licenses herein provided, there shall be paid, on all spirits that may be distilled and sold, or removed for consumption or sale, of first proof, on and after the first day of August, eighteen hundred and sixty-two, the duty of twenty cents on each and every gallon, which shall be paid by the owner, agent, or superintendent of the still or other vessel in which the said spirituous liquors shall have been distilled; which duty shall be paid at the time of rendering the accounts of spirituous liquors so chargeable with duty, required to be rendered by this act: *Provided,* That the duty on spirituous liquors and all other spirituous beverages enumerated in this act shall be collected at no lower rate than the basis of first proof, and shall be increased in proportion for any greater strength than the strength of proof.

**Sec. 42.** *And be it further enacted,* That the term first proof used in this act and in section six of the act of March second, eighteen hundred and sixty-one, entitled "An act to provide for the payment of outstanding treasury notes, to authorize a loan, to regulate and fix the duties on imports, and for other purposes," shall be construed, and is hereby declared to mean, that proof of a liquor which corresponds to fifty degrees of Tralles' centesimal hydrometer, adopted by regulation

of the treasury department, of August twelfth, eighteen hundred and fifty, at the temperature of sixty degrees of Fahrenheit's thermometer; and that in reducing the temperatures to the standard of sixty, and in levying duties on liquors above and below proof, the table of commercial values, contained in the manual for inspectors of spirits, prepared by Professor McCulloh, under the superintendence of Professor Bache, and adopted by the treasury department, shall be used and taken as giving the proportions of absolute alcohol in the liquids gauged and proved according to which duties shall be levied.

**Sec. 43.** *And be it further enacted,* That there shall be designated by the collector in every assessment district where the same may be necessary, one or more inspectors, who shall take an oath faithfully to perform their duties in such form as the commissioner of internal revenue shall prescribe, and who shall be entitled to receive such fees as may be fixed and prescribed by said commissioner. And all spirits distilled as aforesaid by any person licensed as aforesaid, shall, before the same is used, or removed for consumption or sale, be inspected, gauged, and proved by some person so as aforesaid designated for the performance of such duties, and who shall mark upon the cask or other package containing such spirits, in a manner to be prescribed by said commissioner, the quantity and proof of the contents of such cask or package, with the date of inspection and the name of the inspector. And any person who shall attempt fraudulently to evade the payment of duties upon any spirits distilled as aforesaid, by changing in any manner the mark upon any such cask or package, shall forfeit the sum of five hundred dollars for each cask or package so altered or changed, to be recovered as hereinbefore provided. And the fees of such inspector shall in all cases be paid by the owner of the spirits so inspected, gauged, and proved. And any such inspector who shall knowingly put upon any such cask or package any false or fraudulent mark shall be liable to the same penalty hereinbefore provided for each cask or package so fraudulently marked. And any person who shall fraudulently use any cask or package so marked, for the purpose of selling any other spirits than that so inspected, or for selling spirits of a quality or quantity different from that so inspected, shall be subject to a like penalty, as provided, for each cask or package so used. (*As amended, act of March 3, '63, § 1.*)

**Sec. 44.** *And be it further enacted,* That the owner or owners of any distillery may erect, at his or their own expense, a warehouse of iron, stone, or brick, with metal or other fire-proof roof, [to be contiguous to such distillery;]\* and such warehouse, when approved by the collector, is hereby declared a bonded warehouse of the United States, and shall be used only for storing distilled spirits, and to be under the custody of the collector or his deputy. And the duty on the spirits stored in such warehouse shall be paid when and as it is sold or removed from such warehouse for sale.

**Sec. 45.** *And be it further enacted,* That every person who, on the first day of August, eighteen hundred and sixty-two, shall be the owner of any still, boiler, or other vessel, used or intended to be used

\* The words in brackets were struck out by act of March 8, 1863, § 1.



for the purpose of distilling spirituous liquors, as hereinbefore provided, or who shall have such still, boiler, or other vessel under his superintendence, either as agent for the owner or on his own account, and every person who, after said day, shall use or intend to use any still, boiler, or other vessel, as aforesaid, either as owner, agent, or otherwise, shall from day to day make true and exact entry, or cause to be entered, in a book to be kept by him for that purpose, the number of gallons of spirituous liquors distilled by him, and also the number of gallons sold, or removed for consumption or sale, and the proof thereof, which book shall always be open in the daytime, Sundays excepted, for the inspection of the said collector, who may take any minutes, memorandums, or transcripts thereof, and shall render to said collector, on the first, tenth, and twentieth days of each and every month in each year, or within five days thereafter, a general account in writing, taken from his books, of the number of gallons of spirituous liquors distilled and sold, or removed for consumption or sale, and the proof thereof, for the period or fractional part of a month preceding said day, or for such portion thereof as may have elapsed from the date of said entry and report to the said day which shall next ensue; and shall also keep a book, or books, in a form to be prescribed by the commissioner of internal revenue, and to be open at all seasonable hours for inspection by the collector and assessor of the district, wherein shall be entered, from day to day, the quantities of grain, or other vegetable productions, or other substances put into the mash tub by him, his agent, or superintendent, for the purpose of producing spirits; and shall verify or cause to be verified the said entries, reports, books, and general accounts, by oath or affirmation, to be taken before the collector or some other officer authorized by the laws of the State to administer the same according to the form required by this act, where the same is prescribed; and shall also pay to the collector the duties which by this act ought to be paid on the spirituous liquors so distilled and sold, or removed for consumption or sale, and in said accounts mentioned, at the time of rendering an account thereof.

**Sec. 46.** *And be it further enacted,* That the collector of any district may grant a permit to the owner or owners of any distillery within his district to send or ship any spirits, the product of said distillery, after the quantity and proof thereof shall have been ascertained by inspection according to the provisions of this act, to any place without said district and within the United States; and in such case the bill of lading or receipt (which shall be in such form as the commissioner of internal revenue may direct) of the same shall be taken in the name of the collector of the district in which the distillery is situate, and the spirits aforesaid shall be consigned, in such bill of lading or receipt, to the collector of the district in which the place is situate, whither the spirits is sent or shipped, and the amount of duties upon said spirits shall be stated in the receipt; and upon the arrival of the spirits, and upon the demand of the collector aforesaid, the agent of the distillery (and the name of the agent, for the convenience of the collector, shall always appear in the bill of lading or receipt) shall pay the duties upon the said spirits, with the ex-

pense of freight, and every other expense which has accrued thereupon; and the said collector, upon the payment of the duties aforesaid, shall deliver the bill of lading or receipt and the spirits to the agent of the said distillery; and if the duties are not paid as aforesaid, then the said spirits shall be stored at the risk and cost of the owner or agent thereof, who shall pay an addition of ten per centum thereupon; and all the general provisions of this act, in reference to liens, penalties, and forfeitures, as also in reference to the collection, shall apply thereto, and be enforced by the collector of the district in which the spirits may be: *Provided*, That no permit shall be granted, under this section, for a quantity less than fifty barrels: *And provided, further*, That the commissioner of internal revenue, under the direction of the secretary of the treasury, may make such further regulations and require such further securities as he may deem proper, in order to protect the revenue and to carry out the spirit and intent of this section.

**Sec. 47.** *And be it further enacted*, That distilled spirits may be removed from the place of manufacture for the purpose of being exported, or for the purpose of being redistilled for export, and refined coal oil may be removed for the purpose of being exported, after the quantity of spirits or oil so removed shall have been ascertained by inspection, according to the provisions of this act, upon and with the written permission of the collector or deputy collector of the district, without payment of the duties thereon previous to such removal, the owner thereof having first given bond to the United States, with sufficient sureties, in the manner and form and under regulations prescribed by the commissioner of internal revenue, and in at least double the amount of said duties, to export the said spirits or oil or pay the duties thereon within such time as may be prescribed by the commissioner, which time shall be stated in said bond: *Provided*, That any person desiring to give such bonds shall first make oath, before the collector or deputy collector to whom he may apply for a permit to remove any such spirits or oil, in manner and form to be prescribed by said commissioner, that he intends to export such liquors or oil, and that he desires to obtain said permit for no other purpose whatever; and any collector or deputy collector is hereby authorized to administer such oath: *And provided, further*, That no such removal shall be permitted where the amount of duties does not exceed the sum of three hundred dollars, nor in any case where the person desiring such permission has failed to perform the obligation of any bond previously given to the United States for the removal of any such articles, until the same shall have been fully kept and performed. And the collector of the district in which any such bond may be given is authorized to cancel said bond on payment of said duties, with interest thereon, at a rate to be fixed by said commissioner, and all proper charges, if said liquors or oil shall not have been exported, or upon satisfactory proof that the same have been duly exported as aforesaid. And in case of the breach of the obligation of any such bond, the same shall be forthwith forwarded by the collector of the district to the commissioner of internal revenue, to be by him placed in the hands of the first comptroller of the treasury, who shall cause the same proceedings to be

taken thereon for the purpose of collecting the duties, interest, and charges aforesaid, as are provided in this act in case of a delinquent collector.

**Sec. 48.** *And be it further enacted,* That the entries made in the books of the distiller, required to be kept in the foregoing section, shall, on the first, tenth, and twentieth days of each and every month, or within *five* days thereafter, be verified by oath or affirmation, to be taken as aforesaid, of the person or persons by whom such entries shall have been made, which oath or affirmation shall be certified at the end of such entries by the collector or officer administering the same, and shall be, in substance, as follows: "I do swear (or affirm) that the foregoing entries were made by me on the respective days specified, and that they state, according to the best of my knowledge and belief, the whole quantity of spirituous liquors distilled and sold, or removed for consumption or sale, at the distillery owned by \_\_\_\_\_, in the county of \_\_\_\_\_, amounting to \_\_\_\_\_ gallons, according to proof prescribed by the laws of the United States."

**Sec. 49.** *And be it further enacted,* That the owner, agent, or superintendent aforesaid, shall, in case the original entries required to be made in his books by this act shall not have been made by himself, subjoin to the oath or affirmation of the person by whom they were made the following oath or affirmation, to be taken as aforesaid: "I do swear (or affirm) that, to the best of my knowledge and belief, the foregoing entries are just and true, and that I have taken all the means in my power to make them so."

**Sec. 50.** *And be it further enacted,* That on and after the first day of August, eighteen hundred and sixty-two, there shall be paid on all beer, lager beer, ale, porter, and other similar fermented liquors, by whatever name such liquors may be called, a duty of one dollar for each and every barrel containing not more than thirty-one gallons, and at a like rate for any other quantity or for fractional parts of a barrel, which shall be brewed or manufactured and sold or removed for consumption or sale within the United States or the Territories thereof, or within the District of Columbia after that day; which duty shall be paid by the owner, agent, or superintendent of the brewery or premises in which such fermented liquors shall be made, and shall be paid at the time of rendering the accounts of such fermented liquors so chargeable with duty, as required to be rendered by the following section of this act: *Provided,* That fractional parts of a barrel shall be halves, quarters, eighths, and sixteenths, and any fractional part containing less than one-sixteenth shall be accounted one-sixteenth; more than one-sixteenth, and not more than one-eighth, shall be accounted one-eighth; more than one-eighth, and not more than one-quarter, shall be accounted one-quarter; more than one-quarter, and not more than one-half, shall be accounted one-half; more than one-half shall be accounted one barrel.

**Sec. 51.** *And be it further enacted,* That every person who, on said first day of August, eighteen hundred and sixty-two, shall be the owner or occupant of any brewery or premises used or intended to be used for the purpose of brewing or making such fermented liquors, or who shall have such premises under his control or superintendence as

agent for the owner or occupant, or shall have in his possession or custody any vessel or vessels intended to be used on said premises in the manufacture of beer, lager beer, ale, porter, or other similar fermented liquors, either as owner, agent, or otherwise, shall, from day to day, enter or cause to be entered in a book to be kept by him for that purpose, and which shall be open at all times, except Sundays, between the rising and setting of the sun, for the inspection of said collector, who may take any minutes or memorandums or transcripts thereof, the quantities of grain, or other vegetable productions or other substances, put into the mash tub, or otherwise used for the purpose of producing beer or for any other purpose, and the quantity or number of barrels and fractional parts of barrels of fermented liquors made and sold, or removed for consumption or sale, keeping separate account of the several kinds and descriptions; and shall render to said collector, on the first day of each month in each year, or within ten days thereafter, a general account, in writing, taken from his books, of the quantities of grain, or other vegetable productions or other substances, put into the mash tub, or otherwise used for the purpose of producing beer, or for any other purpose, and the quantity or number of barrels and fractional parts of barrels of each kind of fermented liquors made and sold, or removed for consumption or sale, for one month preceding said day, and shall verify, or cause to be verified, the said entries, reports, books, and general accounts, on oath or affirmation, to be taken before the collector or some officer authorized by the laws of the State to administer the same according to the form required by this act where the same is prescribed; and shall also pay to the said collector the duties which, by this act, ought to be paid on the liquor made and sold, or removed for consumption or sale, and in the said accounts mentioned, at the time of rendering the account thereof, as aforesaid. But where the manufacturer of any beer, lager beer, or ale, manufactures the same in one collection district, and owns or hires a depot or warehouse for the storage and sale of such beer, lager beer, or ale in another collection district, he may, instead of paying to the collector of the district where the same was manufactured the duties chargeable thereon, present to such collector or his deputy an invoice of the quantity or number of barrels about to be removed for the purpose of storage and sale, specifying in such invoice, with reasonable certainty, the depot or warehouse in which he intends to place such beer, lager beer, or ale; and thereupon such collector or deputy shall endorse on such invoice his permission for such removal, and shall at the same time transmit to the collector of the district in which such depot or warehouse is situated a duplicate of such invoice; and thereafter the manufacturer of the beer, lager beer, or ale so removed shall render the same account, and pay the same duties, and be subject to the same liabilities and penalties as if the beer, lager beer, or ale so removed had been manufactured in the district. The commissioner of internal revenue may prescribe such rules as he may deem necessary for the purpose of carrying the provisions of this section into effect.

**Sec. 52.** *And be it further enacted,* That the entries made in the books required to be kept by the foregoing section shall, on said first

day of each and every month, or within ten days thereafter, be verified by the oath or affirmation, to be taken as aforesaid, of the person or persons by whom such entries shall have been made, which oath or affirmation shall be certified at the end of such entries by the collector or officer administering the same, and shall be, in substance, as follows:

"I do swear (or affirm) that the foregoing entries were made by me on the respective days specified, and that they state, according to the best of my knowledge and belief, the whole quantity of fermented liquors either brewed or brewed and sold at the brewery owned by \_\_\_\_\_, in the county of \_\_\_\_\_, amounting to \_\_\_\_\_ barrels."

**Sec. 53.** *And be it further enacted*, That the owner, agent, or superintendent aforesaid, shall, in case the original entries required to be made in his books shall not have been made by himself, subjoin to the oath or affirmation the following oath or affirmation, to be taken as aforesaid:

"I do swear (or affirm) that, to the best of my knowledge and belief, the foregoing entries are just and true, and that I have taken all the means in my power to make them so."

**Sec. 54.** *And be it further enacted*, That the owner, agent, or superintendent of any vessel or vessels used in making fermented liquors, or of any still, boiler, or other vessel used in the distillation of spirits on which duty is payable, who shall neglect or refuse to make true and exact entry and report of the same, or to do, or cause to be done, any of the things by this act required to be done as aforesaid, shall forfeit for every such neglect or refusal all the liquors and spirits made by or for him, and all the vessels used in making the same, and the stills, boilers, and other vessels used in distillation, together with the sum of five hundred dollars, to be recovered with costs of suit; which said liquors or spirits, with the vessels containing the same, with all the vessels used in making the same, may be seized by any collector of internal duties, and held by him until a decision shall be had thereon according to law: *Provided*, That such seizure be made within thirty days after the cause for the same may have occurred, and that proceedings to enforce said forfeiture shall have been commenced by such collector within twenty days after the seizure thereof. And the proceedings to enforce said forfeiture of said property shall be in the nature of a proceeding in rem, in the circuit or district court of the United States for the district where such seizure is made, or in any other court of competent jurisdiction.

**Sec. 55.** *And be it further enacted*, That in all cases in which the duties aforesaid, payable on spirituous liquors distilled and sold, or removed for consumption or sale, or beer, lager beer, ale, porter, and other similar fermented liquors, shall not be paid at the time of rendering the account of the same, as herein required, or at the time when they shall have become payable, the person or persons chargeable therewith shall pay, in addition, ten per centum on the amount thereof; and, until such duties with such addition shall be paid, they shall be and remain a lien upon the distillery where such liquors have been distilled, or the brewery where such liquors have been brewed, and upon the stills, boilers, vats, and all other implements thereto belong-

ing, until the same shall have been paid; and in case of refusal or neglect to pay said duties, with the addition, within ten days after the same shall have become payable, the amount thereof may be recovered by distraint and sale of the goods, chattels, and effects of the delinquent; and in case of such distraint, it shall be the duty of the officer charged with the collection to make, or cause to be made, an account of the goods, chattels, or effects which may be distrained, a copy of which, signed by the officer making such distraint, shall be left with the owner or possessor of such goods, chattels, or effects, at his, her, or their dwelling, with a note of the sum demanded, and the time and place of sale; and said officer shall forthwith cause a notification to be published in some newspaper, if any there be, within the county, and publicly posted up at the post office nearest to the residence of the person whose property shall be distrained, or at the court-house of the same county, if not more than ten miles distant, which notice shall specify the articles distrained, and the time and place proposed for the sale thereof, which time shall not be less than ten days from the date of such notification, and the place proposed for sale not more than five miles distant from the place of making such distraint: *Provided*, That in every case of distraint for the payment of the duties aforesaid, the goods, chattels, or effects so distrained may and shall be restored to the owner or possessor if, prior to the sale thereof, payment or tender thereof shall be made to the proper officer charged with the collection, of the full amount demanded, together with such fee for levying and advertising, and such sum for the necessary and reasonable expenses of removing and keeping the goods, chattels, and effects so distrained as may be allowed in like cases by the laws or practice of the State or Territory wherein the distraint shall have been made; but in case of non-payment or neglect to tender as aforesaid, the said officer shall proceed to sell the said goods, chattels, and effects at public auction, after due notice of the time and place of sale, and may and shall retain from the proceeds of such sale the amount demandable for the use of the United States, with the said necessary and reasonable expenses of said distraint and sale, as aforesaid, and a commission of five per centum thereon for his own use; rendering the overplus, if any there be, to the person whose goods, chattels, and effects shall have been distrained. (*As amended, act of March 3, '63, § 1.*)

**Sec. 56.** *And be it further enacted*, That every person licensed as aforesaid to distil spirituous liquors, or licensed as a brewer, shall once in each month, upon the request of the assessor or assistant assessor for the district in which his business as a distiller or brewer may be carried on, respectively, furnish the said assessor or assistant assessor with an abstract of the entries upon his books, herein provided to be made, showing the amount of spirituous liquor distilled and sold, or removed for consumption or sale, or of beer, lager beer, ale, porter, or other fermented liquor made and sold, or removed for consumption or sale, during the preceding month, respectively; the truth and correctness of which abstract shall be verified by the oath of the party so furnishing the same. And the said assessor or assistant assessor shall have the right to examine the books of such person for

the purpose of ascertaining the correctness of such abstract. And for any neglect to furnish such abstract when requested, or refusal to furnish an examination of the books as aforesaid, the person so neglecting shall forfeit the sum of five hundred dollars.

[SEC. 12 (of act of March 3d, 1863). *And be it further enacted*, That no duty shall be required to be assessed or collected on beer, lager beer, ale, or porter, brewed or manufactured, or on coal illuminating oil, refined, produced by the distillation of coal, asphaltum, shale, peat, petroleum, or rock oil, distilled spirits, cotton or woolen fabrics, when brewed, manufactured, or distilled prior to the first day of September, eighteen hundred and sixty-two, whether the same was removed for consumption or sale, or not, when the owner, agent, or superintendent of the brewery or premises in which such articles as aforesaid were made, manufactured, produced, or distilled, shall furnish to the assessor of the district, without cost or expense to the United States, satisfactory proof that such beer, lager beer, ale, or porter, or such coal illuminating oil, refined, produced by the distillation of coal, asphaltum, shale, peat, petroleum, or rock oil, distilled spirits, cotton or woolen fabrics, was actually brewed, manufactured, produced, or distilled prior to the first day of September, eighteen hundred and sixty-two, as aforesaid: *Provided*, That in addition to the fractional parts of a barrel allowed in section fifty of the act to which this act is an amendment, fractional parts of a barrel may be thirds and sixths when the quantity therein contained is not greater than such fractional part represents: *Provided, further*, That from and after the passage of this act, and until the first day of April, eighteen hundred and sixty-four, there shall be paid on all beer, lager beer, ale, porter, and other similar fermented liquors, by whatever name such liquors may be called, a duty only of sixty cents for each and every barrel containing not more than thirty-one gallons, and at a like rate for any other quantity or for fractional parts of a barrel: *And provided, further*, That the commissioner of internal revenue is authorized to make rules providing for deductions on account of leakage, from the quantity of spirituous liquors subject to taxation, under the act to which this act is an amendment, not exceeding five per centum of the amount removed for sale; and said deductions shall be so adjusted in the different parts of the United States as to be proportioned, as nearly as practicable, to the distances over which the manufacturer usually transports said liquors for the wholesale thereof; and the owner of the aforesaid liquors shall be charged with and pay the expense of ascertaining the leakage.

[SEC. 13. *And be it further enacted*, That any brewer of ale, beer, lager beer, porter, or other malt liquors, shall be required to render accounts and make returns on the first day of each and every month, and no oftener. And no brewer of ale, beer, lager beer, porter, or other malt liquors, shall hereafter be required to keep a record or an account, or to report or return the quantities of grain or other vegetable productions, or other substances put into the mash tub by him or his agent or superintendent for the purpose of producing malt liquors, any law to the contrary notwithstanding.]

LICENSES.

**Sec. 57.** *And be it further enacted,* That from and after the first day of August, eighteen hundred and sixty-two, no person, association of persons, or corporation, shall be engaged in, prosecute, or carry on, either of the trades or occupations mentioned in section sixty-four of this act, until he or they shall have obtained a license therefore in the manner hereinafter provided.

[**Sec. 15** (of act of March 3d, 1863). *And be it further enacted,* That the several assessors shall, on the first Monday of May next, and on the first Monday of May in each succeeding year, direct and cause the several assistant assessors to proceed through every part of their respective districts, and inquire after and concerning all persons being within the assessment districts where they respectively reside, and liable to license duty under the provisions of this act, or of the act to which this is an addition, and assess such persons as in said acts is required. And all licenses so assessed shall continue in force until the first day of May next succeeding. And all licenses granted after the first day of May in any year shall expire on the first day of May following, and shall be issued upon the payment of a ratable proportion of the whole amount of duty imposed for such license; and each license so granted shall be dated on the first day of the month in which it is issued: *Provided,* That any person, firm, or corporation that on the first day of May next shall hold an unexpired license, shall be assessed a ratable proportion for the time between the expiration of the license and the first day of May, eighteen hundred and sixty-four.]

**Sec. 58.** *And be it further enacted,* That every person, association of persons, partnership, or corporation, desiring to obtain a license to engage in any of the trades or occupations named in the sixty-fourth section of this act, shall register with the assistant assessor of the assessment district in which he shall design to carry on such trade or occupation—first, his or their name or style; and in case of an association or partnership, the names of the several persons constituting such association or partnership and their places of residence; second, the trade or occupation for which a license is desired; third, the place where such trade or occupation is to be carried on; fourth, if a rectifier, the number of barrels he designs to rectify; if a peddler, whether he designs to travel on foot, or with one, two, or more horses; if an inn-keeper, the yearly rental of the house and property to be occupied for said purpose; or, if not rented, the assistant assessor shall value the same. All of which facts shall be returned duly certified by such assistant assessor, both to the assessor and collector of the district; and thereupon, upon payment to the collector or deputy collector of the district the amount as hereinafter provided, such collector or deputy collector shall make out and deliver a license for such trade or occupation, which license shall continue in force for one year, at the place or premises described therein.

**Sec. 59.** *And be it further enacted,* That if any person or persons shall exercise or carry on any trade or business hereinafter mentioned for the exercising or carrying on of which trade or business a license is required by this act, without taking out such license as is in



that behalf required, he, she, or they shall, for every such offence, respectively, forfeit a penalty equal to three times the amount of the duty or sum of money imposed for such license, one moiety thereof to the use of the United States, the other moiety to the use of the person who, if a collector, shall first discover, and if other than a collector, shall first give information of the fact whereby said forfeiture was incurred.

**Sec. 60.** *And be it further enacted,* That in every license to be taken out under or by authority of this act shall be contained and set forth the purpose, trade, or business for which such license is granted, and the true name and place of abode of the person or persons taking out the same; if for a rectifier, the quantity of spirits authorized to be rectified; if by a peddler, whether authorized to travel on foot, or with one, or two, or more horses, the time for which such license is to run, and the true date or time of granting such license, and (except in the case of auctioneers and peddlers) the place at which the trade or business for which such license is granted shall be carried on: *Provided,* That a license granted under this act shall not authorize the person or persons, association or corporation mentioned therein to exercise or carry on the trade or business specified in such license in any other place than that mentioned therein, but nothing herein contained shall prohibit the storage of goods, wares, or merchandise in other places than the place of business.

**Sec. 61.** *And be it further enacted,* That in every case where more than one of the pursuits, employments, or occupations, hereinbefore described, shall be pursued or carried on in the same place by the same person at the same time, except as therein mentioned, license must be taken out for each according to the rates severally prescribed.

**Sec. 62.** *And be it further enacted,* That no auctioneer shall be authorized by virtue of his license as such auctioneer to sell any goods or other property at private sale; and if any such person shall sell any such goods or commodities, as aforesaid, otherwise than by auction, without having taken out such license as aforesaid for that purpose, he or she shall be subject and liable to the penalty in that behalf imposed upon persons dealing in or retailing, trading, or selling any such goods or commodities without license, notwithstanding any license to him or her before granted, as aforesaid, for the purpose of exercising or carrying on the trade or business of an auctioneer, or selling any goods or chattels, lands, tenements, or hereditaments by auction, anything herein contained to the contrary notwithstanding: *Provided, always,* That where such goods or commodities as aforesaid are the property of any person or persons duly licensed to deal in or retail, or trade in, or sell the same, such person or persons having made lawful entry of his, her, or their house or premises for such purpose, it shall and may be lawful for any person exercising or carrying on the trade or business of an auctioneer, or selling any goods or chattels, lands, tenements, or hereditaments, by auction as aforesaid, being duly licensed, for that purpose, to sell such goods or commodities as aforesaid, at auction, for and in behalf of such person or persons, and upon his, her, or their entered house or premises, without taking out a separate license for such sale. The provisions of this section shall not apply to judicial or executive officers making auction sales by virtue

of any judgment or decree of any court, nor public sales made by executors and administrators.

**Sec. 63.** *And be it further enacted,* That upon the death of any person or persons licensed under or by virtue of this act, or upon the removal of any such person or persons from the house or premises at which he, she, or they were authorized by such license to exercise or carry on the trade or business mentioned in such license, it shall and may be lawful for the person or persons authorized to grant licenses to authorize and empower, by indorsement on such license, or otherwise, as the commissioner of internal revenue shall direct, the executors or administrators, or the wife or child of such deceased person, or the assignee or assigns of such person or persons so removing as aforesaid, who shall be possessed of and occupy the house or premises before used for such purpose as aforesaid, in like manner to exercise or carry on the same trade or business mentioned in such license, in or upon the same house or premises at which such person or persons as aforesaid deceased, or removing as before mentioned, by virtue of such license to him, her, or them, in that behalf granted, before exercised or carried on such trade or business for or during the residue of the term for which such license was originally granted, without taking out any fresh license or payment of any additional duty, or any fee thereupon for the residue of such term, and until expiration thereof: *Provided, always,* That a fresh entry of the premises at which such trade or business shall continue to be so exercised or carried on as aforesaid shall thereupon be made by and in the name or names of the person or persons to whom such authority as aforesaid shall be granted.

[**Sec. 24** (of the act of March 4, 1863). *And be it further enacted,* That if any person or persons shall knowingly exercise or carry on any trade or business, for the exercising or carrying on of which trade or business a license is required, without taking out such license as is in that behalf required, he, she, or they shall for every such offence, upon conviction thereof, in lieu of or in addition to other penalties now imposed by law, at the discretion of the court be subject to imprisonment for a term not exceeding two years.

[**Sec. 25.** *And be it further enacted,* That no auctioneer shall be authorized, by virtue of his license as such auctioneer, to sell any goods or other property in any other district than that in which the license shall have been granted (*except in cities?*); but lawyers, physicians, surgeons, or dentists, having taken out a license as such, shall not be required to take out any additional license in consequence of practicing their profession within or beyond the limits of the district where licensed.

[**Sec. 26.** *And be it further enacted,* That upon the removal of any person or persons from the house or premises at which he, she, or they were authorized by license to exercise or carry on any trade or business mentioned in such license, and authorized by the act to which this act is an amendment, it shall and may be lawful for the person or persons authorized to grant licenses to authorize and empower, by indorsement on such license or otherwise, as the commissioner of internal revenue shall direct, the person or persons so removing, as aforesaid, to any other place, to carry on the trade or business specified in

such license at the place to which such person or persons may have removed, for or during the residue of the term for which such license was originally granted, without taking out any fresh license or payment of any additional duty or any fee thereupon for the residue of such term, and until the expiration thereof: *Provided, always,* That a fresh entry of the premises at which such trade or business shall continue to be so exercised or carried on, as aforesaid, shall thereupon be made by and in the name or names of the person or persons to whom such authority, as aforesaid, shall be granted.]

**Sec. 64.** *And be it further enacted,* That on and after the first day of August, eighteen hundred and sixty-two, for each license granted the sum herewith stated shall be respectively and annually paid. Any number of persons carrying on such business in copartnership may transact such business at such place under such license, and not otherwise.

1. Bankers shall pay one hundred dollars for each license. Every person shall be deemed a banker within the meaning of this act who keeps a place of business where credits are opened in favor of any person, firm, or corporation, by the deposit or collection of money or currency, and the same, or any part thereof, shall be paid out or remitted upon the draft, check, or order of such creditor, but not to include incorporated banks or other banks legally authorized to issue notes as circulation, nor agents for the sale of merchandise for account of producers or manufacturers.

2. Auctioneers shall pay twenty dollars for each license. Every person shall be deemed an auctioneer within the meaning of this act whose occupation it is to offer property for sale to the highest or best bidder.

[3. Wholesale dealers in liquors of any and every description, including distilled spirits, fermented liquors, and wines of all kinds, shall pay one hundred dollars for each license. Every person, other than the distiller, or brewer who shall sell or offer for sale any such liquors or wines in quantities of more than three gallons at one time, to the same purchaser, shall be regarded as a wholesale dealer in liquors within the meaning of this act.] \*

[4. Retail dealers in liquors, including distilled spirits, fermented liquors, and wines of every description, shall pay twenty dollars for each license. Every person who shall sell or offer for sale such liquors in less quantities than three gallons at one time, to the same purchaser, shall be regarded as a retail dealer in liquors under this act. But this shall not authorize any spirits, liquors, wines, or malt liquors, to be drank on the premises.] \*

[5. Retail dealers shall pay ten dollars for each license. Every person whose business or occupation is to sell, or offer to sell, groceries, or any goods, wares, or merchandise, of foreign or domestic production, in less quantities than a whole original piece or package at one time, to the same person, (not including wines, spirituous or malt liquors, but not excluding drugs, medicines, cigars, snuff, or tobacco,) shall be regarded as a retail dealer under this act.] \*

\* Strike out subdivisions in brackets, and see new provisions at the end of this section.

[6. Wholesale dealers shall pay fifty dollars for each license. Every person whose business or occupation is to sell, or offer to sell, groceries, or any goods, wares, or merchandise, of foreign or domestic production, by one or more original package or piece at one time, to the same purchaser, not including wines, spirituous or malt liquors, shall be deemed a wholesale dealer under this act; but having taken out a license as a wholesale dealer, such person may also sell, as aforesaid, as a retailer.] \*

7. Pawnbrokers shall pay fifty dollars for each license. Every person whose business or occupation is to take or receive, by way of pledge, pawn, or exchange, any goods, wares, or merchandise, or any kind of personal property whatever, for the repayment or security of money lent thereon, shall be deemed a pawnbroker under this act.

8. Rectifiers shall pay twenty-five dollars for each license to rectify any quantity of spirituous liquors, not exceeding five hundred barrels or casks, containing not more than forty gallons to each barrel or cask of liquor so rectified; and twenty-five dollars additional for each additional five hundred such barrels, or any fractional part thereof. Every person who rectifies, purifies, or refines spirituous liquors or wines by any process, or mixes distilled spirits, whiskey, brandy, gin, or wine, with any other materials for sale under the name of whiskey, rum, brandy, gin, wine, or any other name or names, shall be regarded as a rectifier under this act.

9. Distillers shall pay fifty dollars for each license, and every person or copartnership who distils or manufactures spirituous liquors or sale shall be deemed a distiller under this act: *Provided*, That any person or copartnership distilling or manufacturing less than three hundred barrels per year shall pay twenty-five dollars for a license. *And provided, further*, That no license shall be required for any still, stills, or other apparatus used by druggists and chemists for the recovery of alcohol for pharmaceutical and chemical purposes which has been used in those processes. *And provided, further*, That distillers of apples and peaches, distilling or manufacturing less than one hundred and fifty barrels per year from the same, shall pay twelve and one-half dollars for a license for that purpose, and for a greater quantity as other distillers.

10. Brewers shall pay fifty dollars for each license. Every person who manufactures fermented liquors of any name or description, for sale, from malt, wholly or in part, shall be deemed a brewer under this act: *Provided*, That any person who manufactures less than five hundred barrels per year shall pay the sum of twenty-five dollars for a license.

11. Hotels, inns, and taverns shall be classified and rated according to the yearly rental, or, if not rented, according to the estimated yearly rental of the house and property intended to be occupied for said purposes, as follows, to wit: All cases where the rent or the valuation of the yearly rental of said house and property shall be ten thousand dollars or more shall constitute the first class, and shall pay two hundred dollars for each license; where the rent or the

\* Strike out subdivisions in brackets, and see new provisions at the end of this section.

such license at the place to which such person or persons may have removed, for or during the residue of the term for which such license was originally granted, without taking out any fresh license or payment of any additional duty or any fee thereupon for the residue of such term, and until the expiration thereof: *Provided, always, That a* fresh entry of the premises at which such trade or business shall continue to be so exercised or carried on, as aforesaid, shall thereupon be made by and in the name or names of the person or persons to whom such authority, as aforesaid, shall be granted.]

**Sec. 64.** *And be it further enacted,* That on and after the first day of August, eighteen hundred and sixty-two, for each license granted the sum herewith stated shall be respectively and annually paid. Any number of persons carrying on such business in copartnership may transact such business at such place under such license, and not otherwise.

1. Bankers shall pay one hundred dollars for each license. Every person shall be deemed a banker within the meaning of this act who keeps a place of business where credits are opened in favor of any person, firm, or corporation, by the deposit or collection of money or currency, and the same, or any part thereof, shall be paid out or remitted upon the draft, check, or order of such creditor, but not to include incorporated banks or other banks legally authorized to issue notes as circulation, nor agents for the sale of merchandise for account of producers or manufacturers.

2. Auctioneers shall pay twenty dollars for each license. Every person shall be deemed an auctioneer within the meaning of this act whose occupation it is to offer property for sale to the highest or best bidder.

[3. Wholesale dealers in liquors of any and every description, including distilled spirits, fermented liquors, and wines of all kinds, shall pay one hundred dollars for each license. Every person, other than the distiller, or brewer who shall sell or offer for sale any such liquors or wines in quantities of more than three gallons at one time, to the same purchaser, shall be regarded as a wholesale dealer in liquors within the meaning of this act.] \*

[4. Retail dealers in liquors, including distilled spirits, fermented liquors, and wines of every description, shall pay twenty dollars for each license. Every person who shall sell or offer for sale such liquors in less quantities than three gallons at one time, to the same purchaser, shall be regarded as a retail dealer in liquors under this act. But this shall not authorize any spirits, liquors, wines, or malt liquors, to be drank on the premises.] \*

[5. Retail dealers shall pay ten dollars for each license. Every person whose business or occupation is to sell, or offer to sell, groceries, or any goods, wares, or merchandise, of foreign or domestic production, in less quantities than a whole original piece or package at one time, to the same person, (not including wines, spirituous or malt liquors, but not excluding drugs, medicines, cigars, snuff, or tobacco,) shall be regarded as a retail dealer under this act.] \*

\* Strike out subdivisions in brackets, and see new provisions at the end of this section.

[6. Wholesale dealers shall pay fifty dollars for each license. Every person whose business or occupation is to sell, or offer to sell, groceries, or any goods, wares, or merchandise, of foreign or domestic production, by one or more original package or piece at one time, to the same purchaser, not including wines, spirituous or malt liquors, shall be deemed a wholesale dealer under this act; but having taken out a license as a wholesale dealer, such person may also sell, as aforesaid, as a retailer.] \*

7. Pawnbrokers shall pay fifty dollars for each license. Every person whose business or occupation is to take or receive, by way of pledge, pawn, or exchange, any goods, wares, or merchandise, or any kind of personal property whatever, for the repayment or security of money lent thereon, shall be deemed a pawnbroker under this act.

8. Rectifiers shall pay twenty-five dollars for each license to rectify any quantity of spirituous liquors, not exceeding five hundred barrels or casks, containing not more than forty gallons to each barrel or cask of liquor so rectified: and twenty-five dollars additional for each additional five hundred such barrels, or any fractional part thereof. Every person who rectifies, purifies, or refines spirituous liquors or wines by any process, or mixes distilled spirits, whiskey, brandy, gin, or wine, with any other materials for sale under the name of whiskey, rum, brandy, gin, wine, or any other name or names, shall be regarded as a rectifier under this act.

9. Distillers shall pay fifty dollars for each license, and every person or copartnership who distills or manufactures spirituous liquors for sale shall be deemed a distiller under this act: *Provided*, That any person or copartnership distilling or manufacturing less than three hundred barrels per year shall pay twenty-five dollars for a license. *And provided, further*, That no license shall be required for any still, stills, or other apparatus used by druggists and chemists for the recovery of alcohol for pharmaceutical and chemical purposes which has been used in those processes. *And provided, further*, That distillers of apples and peaches, distilling or manufacturing less than one hundred and fifty barrels per year from the same, shall pay twelve and one-half dollars for a license for that purpose, and for a greater quantity as other distillers.

10. Brewers shall pay fifty dollars for each license. Every person who manufactures fermented liquors of any name or description, for sale, from malt, wholly or in part, shall be deemed a brewer under this act: *Provided*, That any person who manufactures less than five hundred barrels per year shall pay the sum of twenty-five dollars for a license.

11. Hotels, inns, and taverns shall be classified and rated according to the yearly rental, or, if not rented, according to the estimated yearly rental of the house and property intended to be occupied for said purposes, as follows, to wit: All cases where the rent or the valuation of the yearly rental of said house and property shall be ten thousand dollars or more shall constitute the first class, and shall pay two hundred dollars for each license; where the rent or the

\* Strike out subdivisions in brackets, and see new provisions at the end of this section.

valuation of the yearly rental shall be five thousand dollars and less than ten thousand dollars, the second class, and shall pay one hundred dollars for each license; where the rent or the valuation of the yearly rental shall be twenty-five hundred dollars and less than five thousand dollars, the third class, and shall pay seventy-five dollars for each license; where the rent or the valuation of the yearly rental shall be one thousand dollars and less than twenty-five hundred dollars, the fourth class, and shall pay fifty dollars for each license; where the rent or the valuation of the yearly rental shall be five hundred dollars and less than one thousand dollars, the fifth class, and shall pay twenty-five dollars for each license; where the rent or the valuation of the yearly rental shall be three hundred dollars and less than five hundred dollars, the sixth class, and shall pay fifteen dollars for each license; where the rent or the valuation of the yearly rental shall be one hundred dollars and less than three hundred dollars, the seventh class, and shall pay ten dollars for each license; where the rent or the valuation of the yearly rental shall be less than one hundred dollars, the eighth class, and shall pay five dollars for each license. Every place where food and lodging are provided for and furnished to travellers and sojourners, in view of payment therefor, shall be regarded as a hotel, inn, or tavern under this act. All steamers and vessels upon waters of the United States, on board of which passengers or travellers are provided with food or lodging, shall be required to take out a license of the fifth class, as aforesaid, under this act. The rental or estimated rental shall be fixed and established by the assessor of the proper district at its proper value, but at not less than the actual rent agreed on by the parties: *Provided*, That if there be any fraud or collusion in the return of actual rent to the assessor, there shall be a penalty equal to double the amount of licenses required by this section, to be collected as other penalties under this act are collected.

12. Eating-houses shall pay ten dollars for each license. Every place where food or refreshments of any kind are provided for casual visitors and sold for consumption therein shall be regarded as an eating-house under this act. But the keeper of any eating-house having taken out a license therefor shall not be required to take out a license as a confectioner, anything in this act to the contrary notwithstanding.

13. Brokers shall pay fifty dollars for each license. Any person whose business is to purchase or sell stocks, coined money, bank notes, or other securities for themselves or others, or who deals in exchanges relating to money, shall be regarded a broker under this act.

14. Commercial brokers shall pay fifty dollars for each license. Any person or firm, except one holding a license as wholesale dealer or banker, whose business it is, as the agent of others, to purchase or sell goods, or seek orders therefor, in original or unbroken packages or produce, or to manage business matters for the owners of vessels, or for the shippers or consignors of freight carried by vessels, or whose business it is to purchase, rent, or sell real estate for others, shall be regarded a commercial broker under this act. *That section*

*sixty-four be and hereby is so amended, that no license shall be required of an attorney having taken out a license as such in consequence of being employed to purchase, rent, or sell real estate, or to collect rent thereon for others in the ordinary course of business. (As amended, act of March 3, '63, § 1.)*

15. Land-warrant brokers shall pay twenty-five dollars for each license. Any person shall be regarded as a land-warrant broker within the meaning of this act who makes a business of buying and selling land warrants, and of furnishing them to settlers or other persons under contracts to have liens upon the land procured by means of them according to the value agreed on for the warrants at the time they are furnished.

16. Tobacconists shall pay ten dollars for each license. Any person whose business it is to sell, at retail, cigars, snuff, or tobacco in any form, shall be regarded a tobacconist under this act. But wholesale and retail dealers, and keepers of hotels, inns, taverns, or eating-houses, having taken out a license therefor, shall not be required to take out a license as tobacconists, anything in this act to the contrary notwithstanding. (*As amended, act of March 3, '63.*)

17. Theatres shall pay one hundred dollars for each license. Every edifice erected for the purpose of dramatic or operatic representations, plays, or performances, and not including halls rented or used occasionally for concerts or theatrical representations, shall be regarded as a theatre under this act.

18. Circuses shall pay fifty dollars for each license. Every building, tent, space, or area where feats of horsemanship or acrobatic sports are exhibited, shall be regarded as a circus under this act.

19. Jugglers shall pay for each license twenty dollars. Every person who performs by sleight of hand shall be regarded as a juggler under this act. The proprietors or agents of all other public exhibitions or shows for money, not enumerated in this section, shall pay for each license ten dollars: *Provided*, That no license procured in one State shall be held to authorize exhibitions in another State; and but one license shall be required under this act to authorize exhibitions within any one State.

20. Bowling-alleys and billiard rooms shall pay according to the number of alleys or tables belonging to or used in the building or place to be licensed. When not exceeding one alley or table, five dollars for each license; and when exceeding one alley or table, five dollars for each additional alley or table. Every place or building where bowls are thrown or billiards played, and open to the public with or without price, shall be regarded as a bowling-alley or billiard room, respectively, under this act.

21. Confectioners shall pay ten dollars for each license. Every person who sells at retail confectionery, sweetmeats, confits, or other confections, in any building, shall be regarded as a confectioner under this act. But wholesale and retail dealers, having taken out a license therefor, shall not be required to take out a license as confectioner, anything in this act to the contrary notwithstanding.

22. Horse-dealers shall pay for each license the sum of ten dollars. Any person whose business it is to buy and sell horses or mules shall



be regarded a horse-dealer under this act: *Provided*, That if such horse-dealer shall have taken out a license as a livery-stable keeper no new license shall be required.

23. Livery-stable keepers shall pay ten dollars for each license. Any person whose occupation or business is to keep horses for hire or to let shall be regarded as a livery-stable keeper under this act.

24. Cattle brokers shall pay for each license the sum of ten dollars. Any person whose business it is to buy and sell and deal in cattle, hogs, or sheep, shall be considered as a cattle broker.

25. Tallow-chandlers and soap-makers shall pay for each license the sum of ten dollars. Any person whose business it is to make or manufacture candles or soap shall be regarded a tallow-chandler and soap-maker under this act.

26. Coal-oil distillers shall pay for each license the sum of fifty dollars. Any person who shall refine, produce, or distil crude petroleum or rock oil, or crude coal oil, or crude oil made of asphaltum, shale, peat, or other bituminous substances, shall be regarded a coal-oil distiller under this act.

27. Peddlers shall be classified and rated as follows, to wit: when travelling with more than two horses, the first class, and shall pay twenty dollars for each license; when travelling with two horses, the second class, and shall pay fifteen dollars for each license; when travelling with one horse, the third class, and shall pay ten dollars for each license; when travelling on foot, the fourth class, and shall pay five dollars for each license. Any person, except persons peddling newspapers, Bibles, or religious tracts, who sells, or offers to sell, at retail, goods, wares, or other commodities, traveling from place to place, in the street, or through different parts of the country, shall be regarded a peddler under this act: *Provided*, That any peddler who sells, or offers to sell, dry goods, foreign and domestic, by one or more original packages or pieces, at one time, to the same person or persons, as aforesaid, shall pay fifty dollars for each license. And any person who peddles jewelry shall pay twenty-five dollars for each license: *Provided*, That manufacturers and producers of agricultural tools and implements, garden seeds, stoves, and hollow ware, brooms, wooden ware and powder, delivering and selling at wholesale any of said articles, by themselves or their authorized agents at places other than the place of manufacture, shall not be required, for any sale thus made, to take out an additional license therefor.

28. Apothecaries shall pay ten dollars for each license. Every person who keeps a shop or building where medicines are compounded or prepared according to prescriptions of physicians, and sold, shall be regarded an apothecary under this act. But wholesale and retail dealers, who have taken out a license therefor, shall not be required to take out a license as apothecary, anything in this act to the contrary notwithstanding. *Nor shall apothecaries who have taken out a license as such be required to take out a license as retail dealers in liquors in consequence of selling alcohol. (As amended, act of March 3, '63, § 1.)*

29. Manufacturers shall pay ten dollars for each license. Any person or persons, firms, companies, or corporations, who shall manufacture by hand or machinery, and offer for sale any goods, wares, or

merchandise, or who shall manufacture by hand or machinery, for any other person or persons, goods, wares, or merchandise, exceeding annually the sum of one thousand dollars, shall be regarded a manufacturer under this act. (*As amended, act of March 3, '63, § 1.*)

30. Photographers shall pay ten dollars for each license when the receipts do not exceed five hundred dollars; when over five hundred dollars, and under one thousand dollars, fifteen dollars; when over one thousand dollars, twenty-five dollars. Any person or persons who make for sale photographs, ambrotypes, daguerreotypes, or pictures on glass, metal, or paper, by the action of light, shall be regarded a photographer under this act.

31. Lawyers shall pay ten dollars for each license. Every person whose business it is, for fee or reward, to prosecute or defend causes in any court of record or other judicial tribunal of the United States or of any of the States, or give advice in relation to causes or matters pending therein, shall be deemed to be a lawyer within the meaning of this act.

32. Physicians, surgeons, and dentists shall pay ten dollars for each license. Every person (except apothecaries) whose business it is, for fee and reward, to prescribe remedies or perform surgical operations for the cure of any bodily disease or ailment, shall be deemed a physician, surgeon, or dentist, as the case may be, within the meaning of this act.

33. Claim agents and agents for procuring patents shall pay ten dollars for each license. Every person whose business it is to prosecute claims in any of the executive departments of the Federal Government, or procure patents, shall be deemed a claim or patent agent, as the case may be, under this act.

[34. \*Architects and civil engineers shall pay ten dollars for each license. Every person whose business it is to plan, design, or superintend the construction of buildings, or ships, or of roads, or bridges, or canals, or railroads, shall be regarded as an architect and civil engineer under this act: *Provided*, That this shall not include a practical carpenter who labors on a building.

[35. Builders and contractors shall pay twenty-five dollars for each license. Every person whose business it is to construct buildings, or ships, or bridges, or canals, or railroads, by contract, shall be regarded as a builder and contractor under this act: *Provided*, That no license shall be required from any person whose building contracts do not exceed two thousand five hundred dollars in any one year.

[36. Stallions and jacks, owners of, shall pay ten dollars for each license. Every person who keeps a male horse or a jackass for the use of mares, requiring or receiving pay therefor, shall be required to take out a license under this act, which shall contain a brief description of the animal, its age, and place or places where used or to be used: *Provided*, That all accounts, notes, or demands, for the use of any such horse or jack without a license, as aforesaid, shall be invalid and of no force in any court of law or equity.

[37. Lottery-ticket dealers shall pay one thousand dollars for each license. Every person, association, firm, or corporation who shall make, sell, or offer to sell lottery tickets or fractional parts thereof,

\* Paragraphs 34 to 43, inclusive, were added by the act of March 3, 1863.

or any token, certificate, or device representing or intended to represent a lottery ticket or any fractional part thereof, or any policy of numbers in any lottery, or shall manage any lottery or prepare schemes of lotteries, or superintend the drawing of any lottery, shall be deemed a lottery-ticket dealer under this act.

[38. Insurance agents shall pay ten dollars for each license. Any person who shall act as agent of any fire, marine, life, mutual, or other insurance company or companies, shall be regarded as an insurance agent under this act: *Provided*, That no license shall be required of any insurance agent or broker whose receipts, as such agent, are less than the sum of six hundred dollars in any one year.

[39. Butchers shall pay ten dollars for each license. Every person whose business it is to sell butchers' meat at retail shall be regarded as a butcher under this act: *Provided*, That no butcher having taken out a license, and paid ten dollars therefor, shall be required to take out a license as retail dealer on account of selling other articles at the same store, stall, or premises: *Provided, further*, That butchers who retail butchers' meat exclusively from a cart or wagon, by themselves or agents, shall be required to pay five dollars only for each license, any existing law to the contrary notwithstanding, and having taken out a license therefor shall not be required to take out a license as a peddler for retailing butchers' meat, as aforesaid: *And provided, further*, That no license shall be required of a butcher whose annual sales do not exceed one thousand dollars.

[40. Retail dealers shall pay ten dollars for each license. Every person whose business or occupation it is to sell or offer for sale any goods, wares, or merchandise of foreign or domestic production, not including wines, spirituous or malt liquors, but not excluding drugs, medicines, cigars, snuff, or tobacco, and whose annual sales exceed one thousand, and do not exceed twenty-five thousand dollars, shall be regarded as a retail dealer under this act.

[41. Wholesale dealers, whose annual sales do not exceed fifty thousand dollars, shall pay twenty-five dollars for each license; if exceeding fifty thousand and not exceeding one hundred thousand dollars, shall pay fifty dollars for each license; exceeding one hundred thousand and not exceeding two hundred and fifty thousand dollars, shall pay one hundred dollars for each license; exceeding two hundred and fifty thousand and not exceeding five hundred thousand dollars, shall pay two hundred dollars for each license; exceeding five hundred thousand and not exceeding one million dollars, shall pay three hundred dollars for each license; exceeding one million and not exceeding two million dollars, shall pay five hundred dollars for each license; exceeding two millions of dollars, shall pay two hundred and fifty dollars for every million of dollars in excess of two millions of dollars, in addition to the five hundred dollars. Every person shall be regarded as a wholesale dealer under this act whose business or occupation it is to sell or offer to sell any goods, wares, or merchandise of foreign or domestic production, not including distilled spirits, fermented liquors or wines, but not excluding drugs, medicines, cigars, snuff, or tobacco, whose annual sales exceed twenty-five thousand dollars; and the license required by any wholesale dealer shall not

be for a less amount than his sales for the previous year, unless he has made or purposes to make some change in his business that will obviously reduce the amount of his annual sales; nor shall any license as wholesale dealer allow any such person to act as a commercial broker: *Provided*, That any license understated may be again assessed.

[42. Wholesale dealers in liquors shall pay for each license the amount required in this act for license to wholesale dealers. Every person, other than the distiller or brewer, who shall sell or offer for sale any distilled spirits, fermented liquors, and wines of all kinds, in quantities of more than three gallons at one time, or whose annual sales shall exceed twenty-five thousand dollars, shall take out a license as a wholesale dealer in liquors.

[43. Retail dealers in liquors shall pay twenty dollars for each license. Every person, other than a distiller or brewer, who shall sell or offer for sale any distilled spirits, fermented liquors, or wine of any description, in quantities of three gallons or less, and whose annual sales do not exceed twenty-five thousand dollars, shall be regarded as a retail dealer in liquors under this law; but nothing herein contained shall authorize the sale of any spirits, liquors, wines, or malt liquors to be drank on the premises: *Provided*, That no person licensed to keep a hotel, inn, or tavern shall be allowed to sell any liquor to be taken off the premises, and no person licensed to keep an eating-house shall be allowed to sell spirituous or vinous liquors, and no person who has taken out a license to keep a hotel, inn, tavern, or eating-house shall be required to take out a license as a tobaccoist because of any tobacco or cigars furnished in the usual course of business as a keeper of a hotel, inn, tavern, or eating-house.]

**Sec. 65.** *And be it further enacted*, That where the annual gross receipts or sales of any apothecaries, confectioners, eating-houses, tobaccoists, or retail dealers, shall not exceed the sum of one thousand dollars, such apothecaries, confectioners, eating-houses, and retail dealers shall not be required to take out or pay for license, anything in this act to the contrary notwithstanding; the amount or estimated amount of such annual sales to be ascertained or estimated in such manner as the commissioner of internal revenue shall prescribe, and so of all other annual sales or receipts, where the rate of the license is graduated by the amount of sales or receipts.

**Sec. 66.** *And be it further enacted*, That nothing contained in the preceding sections of this act, laying duties on licenses, shall be construed to require a license for the sale of goods, wares, and merchandise made or produced and sold by the manufacturer or producer at the manufactory or place where the same is made or produced; to vintners who sell, at the place where the same is made, wine of their own growth; nor to apothecaries, as to wines or spirituous liquors which they use exclusively in the preparation or making up of medicines for sick, lame, or diseased persons; nor shall the provisions of paragraph number twenty-seven extend to physicians who keep on hand medicines solely for the purpose of making up their own prescriptions for their own patients.

**Sec. 67.** *And be it further enacted*, That no license hereinbefore provided for, if granted, shall be construed to authorize the commence-

ment or continuation of any trade, business, occupation, or employment therein mentioned, within any State or Territory of the United States in which it is or shall be specially prohibited by the laws thereof, or in violation of the laws of any State or Territory: *Provided*, Nothing in this act shall be held or construed so as to prevent the several States, within the limits thereof, from placing a duty, tax, or license, for State purposes, on any business, matter or thing on which a duty, tax, or license is required to be paid by this act.

### MANUFACTURES, ARTICLES, AND PRODUCTS.

#### SPECIFIC AND AD VALOREM DUTY.

**Sec. 68.** *And be it further enacted*, That on and after the first day of August, eighteen hundred and sixty-two, every individual, partnership, firm, association, or corporation, (and any word or words in this act indicating or referring to person or persons shall be taken to mean and include partnerships, firms, associations, or corporations, when not otherwise designated or manifestly incompatible with the intent thereof,) shall comply with the following requirements, that is to say:

First. Before commencing, or, if already commenced, before continuing, any such manufacture for which he, she, or they may be liable to be assessed, under the provisions of this act, and which shall not be differently provided for elsewhere, within thirty days after the date when this act shall take effect, he, she, or they shall furnish to the assistant assessor a statement, subscribed and sworn to, or affirmed, setting forth the place where the manufacture is to be carried on, name of the manufactured article, the proposed market for the same, whether foreign or domestic, and generally the kind and quality manufactured or proposed to be manufactured.

Second. He shall within ten days after the first day of each and every month, after the day on which this act takes effect, as hereinbefore mentioned, or on or before a day prescribed by the commissioner of internal revenue, make return of the products and sales or delivery of such manufacture in form and detail as may be required, from time to time, by the commissioner of internal revenue.

Third. All such returns, statements, descriptions, memoranda, oaths and affirmations, shall be in form, scope, and detail as may be prescribed, from time to time, by the commissioner of internal revenue.

**Sec. 69.** *And be it further enacted*, That upon the amounts, quantities, and values of produce, goods, wares, merchandise, and articles manufactured and sold, or delivered, hereinafter enumerated, the manufacturer thereof, whether manufactured for himself or for others, shall pay to the collector of internal revenue within his district, monthly, or on or before a day to be prescribed by the commissioner of internal revenue, the duties on such manufactures: *Provided*, That when thread is manufactured and sold or delivered exclusively for knitted fabrics, or for weaving or spooling, as provided for in the seventy-fifth section of this act, the duties shall be assessed on the articles finished and prepared for use or consumption to the party so

finishing or preparing the same, and any party so finishing or preparing any cloth or other fabrics of cotton, wool, or other materials, whether imported or otherwise, shall be considered the manufacturer thereof for the purposes of this act; and for neglect to pay such duties within ten days after demand, either personal or written, left at his, her, or their house or place of business, or manufactory, the amount of such duties may be levied upon the real and personal property of any such manufacturer. And such duties, and whatever shall be the expenses of levy, shall be a lien from the day prescribed by the commissioner for their payment aforesaid, in favor of the United States, upon the said real and personal property of such manufacturer, and such lien may be enforced by distraint, as provided in the general provisions of this act: *And provided, further*, That in all cases of goods manufactured, in whole or in part, upon commission, or where the material is furnished by one party and manufactured by another, if the manufacturer shall be required to pay under this act the tax hereby imposed, such person or persons so paying the same shall be entitled to collect the amount thereof of the owner or owners, and shall have a lien for the amount thus paid upon the manufactured goods: *And provided, further*, That the taxes on all articles manufactured and sold, in pursuance of contracts bone fide made before the passage of this act, shall be paid by the purchasers thereof, under regulations to be established by the commissioner of internal revenue.

**Sec. 70.** *And be it further enacted*, That for neglect or refusal to pay the duties provided by this act on manufactured articles, as aforesaid, the goods, wares, and merchandise manufactured and unsold by such manufacturer shall be forfeited to the United States, and may be sold or disposed of for the benefit of the same, in manner as shall be prescribed by the commissioner of internal revenue, under the direction of the secretary of the treasury. In such case the collector or deputy collector may take possession of said articles, and may maintain such possession in the premises and buildings where they may have been manufactured, or deposited, or may be. He shall summon, giving notice of not less than two nor more than ten days, the parties in possession of said goods, enjoining them to appear before the assessor, or assistant assessor, at a day and hour in such summons fixed, then and there to show cause, if any there be, why, for such neglect or refusal, such articles should not be declared forfeited to the United States. Such persons or parties interested shall be deemed to be the manufacturers of the same, if the articles shall be at the time of taking such possession upon the premises where manufactured; if they shall at such time have been removed from the place of manufacture, the parties interested shall be deemed to be the person in whose custody or possession the articles shall then be. Such summons shall be served upon such parties in person, or by leaving a copy thereof at the place of abode or business of the party to whom the same may be directed. In case no such party or place can be found, which fact shall be determined by the collector's return on the summons, such notice, in the nature of a summons, shall be given by advertisement for the term of three weeks in one newspaper in the county nearest to the place of such sale. If at or before such hearing

such duties shall not have been paid, and the assessor or assistant assessor shall adjudge the summons and notice, service and return of the same to be sufficient, the said articles shall be declared forfeit, and shall be sold, disposed of, or turned over to the use of any department of the Government as may be directed by the secretary of the treasury, who may require of any officer of the Government into whose possession the same may be turned over the proper voucher therefor: *Provided*, That the proceeds of the sale of said articles, if any there be after deducting the duties thereon, together with the expenses of summons, advertising, and sale, or the excess of the value of said articles, after deducting the duties and expenses accrued thereon when turned over to the use of any department of the Government, shall be refunded and paid to the manufacturer, or to the person in whose custody or possession the articles were when seized. The commissioner of internal revenue, with the approval of the secretary of the treasury, may review any such case of forfeiture and do justice in the premises. If the forfeiture shall have been wrongly declared, and sale made, the secretary is hereby authorized, in case the specific articles cannot be restored to the party aggrieved in as good order and condition as when seized, to make up to such party in money his loss and damage from the contingent fund of his department. Immediate return of seizures so forfeited shall be made to the commissioner of internal revenue by the collector or deputy collector who shall make any such seizure. Articles which the collector may adjudge perishable may be sold or disposed of before declaration of forfeiture. Said sales shall be made at public auction, and notice thereof shall be given in the same manner as is provided in this section in case of forfeiture.

**Sec. 71.** *And be it further enacted*, That any violation of, or refusal to comply with, the provisions of the sixty-eighth section of this act, shall be good cause for seizure and forfeiture, substantially in manner as detailed in the section next preceding this, of all manufactured articles liable to be assessed under the provisions of this act, and not otherwise provided for; and such violation or refusal to comply shall further make any party so violating or refusing to comply liable to a fine of five hundred dollars, to be recovered in manner and form as provided in this act.

**Sec. 72.** *And be it further enacted*, That in case of the manufacture and sale or delivery of any goods, wares, merchandise, or articles as hereinafter mentioned, without compliance on the part of the party manufacturing the same with all or any of the requirements and regulations prescribed in this act in relation thereto, the assistant assessor may, upon such information as he may have, assume and estimate the amount and value of such manufactures, and upon such assumed amount assess the duties, and said duties shall be collected in like manner as in case the provisions of this act in relation thereto had been complied with, and to such articles all the foregoing provisions for liens, fines, penalties, and forfeitures, shall in like manner apply.

**Sec. 73.** *And be it further enacted*, That all goods, wares, and merchandise, or articles manufactured or made by any person or per-

[6. Wholesale dealers shall pay fifty dollars for each license. Every person whose business or occupation is to sell, or offer to sell, groceries, or any goods, wares, or merchandise, of foreign or domestic production, by one or more original package or piece at one time, to the same purchaser, not including wines, spirituous or malt liquors, shall be deemed a wholesale dealer under this act; but having taken out a license as a wholesale dealer, such person may also sell, as aforesaid, as a retailer.] \*

7. Pawnbrokers shall pay fifty dollars for each license. Every person whose business or occupation is to take or receive, by way of pledge, pawn, or exchange, any goods, wares, or merchandise, or any kind of personal property whatever, for the repayment or security of money lent thereon, shall be deemed a pawnbroker under this act.

8. Rectifiers shall pay twenty-five dollars for each license to rectify any quantity of spirituous liquors, not exceeding five hundred barrels or casks, containing not more than forty gallons to each barrel or cask of liquor so rectified: and twenty-five dollars additional for each additional five hundred such barrels, or any fractional part thereof. Every person who rectifies, purifies, or refines spirituous liquors or wines by any process, or mixes distilled spirits, whiskey, brandy, gin, or wine, with any other materials for sale under the name of whiskey, rum, brandy, gin, wine, or any other name or names, shall be regarded as a rectifier under this act.

9. Distillers shall pay fifty dollars for each license, and every person or copartnership who distills or manufactures spirituous liquors for sale shall be deemed a distiller under this act: *Provided*, That any person or copartnership distilling or manufacturing less than three hundred barrels per year shall pay twenty-five dollars for a license. *And provided, further*, That no license shall be required for any still, stills, or other apparatus used by druggists and chemists for the recovery of alcohol for pharmaceutical and chemical purposes which has been used in those processes. *And provided, further*, That distillers of apples and peaches, distilling or manufacturing less than one hundred and fifty barrels per year from the same, shall pay twelve and one-half dollars for a license for that purpose, and for a greater quantity as other distillers.

10. Brewers shall pay fifty dollars for each license. Every person who manufactures fermented liquors of any name or description, for sale, from malt, wholly or in part, shall be deemed a brewer under this act: *Provided*, That any person who manufactures less than five hundred barrels per year shall pay the sum of twenty-five dollars for a license.

11. Hotels, inns, and taverns shall be classified and rated according to the yearly rental, or, if not rented, according to the estimated yearly rental of the house and property intended to be occupied for said purposes, as follows, to wit: All cases where the rent or the valuation of the yearly rental of said house and property shall be ten thousand dollars or more shall constitute the first class, and shall pay two hundred dollars for each license; where the rent or the

\* Strike out subdivisions in brackets, and see new provisions at the end of this section.



per one thousand cubic feet; when the product shall be above five millions, fifteen cents per one thousand cubic feet; and the general average of the monthly product for the year preceding the return required by this act shall regulate the rate of duty herein imposed; and where any gas company shall not have been in operation for the year next preceding the return as aforesaid, then the rate shall be regulated upon the estimated average of the monthly product: *Provided*, That the product required to be returned by this act shall be understood to be the product charged in the bills actually rendered by any gas company during the month preceding the return, and all gas companies are hereby authorized to add the duty or tax imposed by this act to the price per thousand cubic feet on gas sold: *Provided, further*, That all gas furnished for lighting street lamps, and not measured, and all gas made for and used by any hotel, inn, tavern, and private dwelling-house shall, be subject to duty, and may be estimated; and if the returns in any case shall be understated or under estimated, it shall be the duty of the assistant assessor of the district to increase the same as he shall deem just and proper: *And provided, further*, That coal tar produced in the manufacture of illuminating gas, and the products of the redistillation of coal tar thus produced, shall be exempt from duty: *And provided, further*, That gas companies so located as to compete with each other shall pay the rate imposed by this act upon the company having the largest production;

- On coal illuminating oil, refined, produced by the distillation of coal, asphaltum, shale, peat, petroleum, or rock oil, and all other bituminous substances used for like purposes, ten cents per gallon: *Provided*, That such oil refined and produced by the distillation of coal exclusively shall be subject to pay a duty of eight cents per gallon, anything in this act to the contrary notwithstanding: *And provided, further*, That distillers of coal oil shall be subject to all the provisions of this act hereinbefore set forth and specified applicable to distillers of spirituous liquors, with regard to licenses, bonds, returns, and all other provisions designed for the purpose of ascertaining the quantity distilled, and securing the payment of duties, so far as the same may, in the judgment of the commissioner of internal revenue, and under regulations prescribed by him, be necessary for that purpose;
- On ground coffee, and all preparations of which coffee forms a part, or which is prepared for sale as a substitute for coffee, three mills per pound;
- On ground pepper, ground mustard, ground pimento, ground cloves, ground cassia, and ground ginger, and all imitations of the same, one cent per pound;
- [On sugar, refined, whether loaf, lump, granulated, or pulverized, two mills per pound;]\*
- [On sugar, refined or made from molasses, sirup of molasses, melado or concentrated melado, two mills per pound;]\*
- [Sugar refiners shall pay one and one-half of one per cent on the gross amount of the sales of all the products of their manufacto-

\* By the act of March 8, 1863, these two paragraphs were struck out, and the one following substituted in lieu thereof.

ries: *Provided*, That every person shall be regarded as a sugar refiner under this act whose business it is to advance the quality and value of sugar by melting and recrystallization, or by liquoring, claying, or other washing process, or by any other chemical or mechanical means, or who shall advance the quality or value of molasses and concentrated molasses, melado or concentrated melado, by boiling or other process;]

On all brown, muscovado, or clarified sugars produced directly from the sugar cane, and not from sorghum or imphee, other than those produced by the refiner, *two*\* cents per pound;

[On sugar-candy and all confectionery made wholly or in part of sugar, valued at fourteen cents per pound or less, two cents per pound; when valued at exceeding fourteen cents and not exceeding forty cents per pound, three cents per pound; when valued at exceeding forty cents per pound, or when sold otherwise than by the pound, five per centum ad valorem;]

On chocolate, and cocoa prepared, one cent per pound;

On saleratus and bicarbonate of soda, five mills per pound;

On starch, made of potatoes, one mill per pound; made of corn or wheat, one and a half mills per pound; made of rice or any other material, four mills per pound;

On tobacco, cavendish, plug, twist, fine cut, and manufactured of all descriptions, (not including snuff, cigars, and smoking tobacco prepared with all the stems in, or made exclusively of stems,) *fifteen* cents per pound;

On smoking tobacco prepared with all the stems in, and on smoking tobacco made exclusively of stems, *five* cents per pound. (*As amended, act of March 3, '83, § 1.*)

[On snuff manufactured of tobacco, *on* [or] stems, or of any substitute for tobacco, ground, dry, or damp, of all descriptions, twenty cents per pound;]

On cigars, valued at not over five dollars per thousand, one dollar and fifty cents per thousand;

On cigars valued at over five and not over ten dollars per thousand, two dollars per thousand;

On cigars, valued at over ten and not over twenty dollars per thousand, two dollars and fifty cents per thousand;

On cigars, valued at over twenty dollars per thousand, three dollars and fifty cents per thousand;

On gunpowder, and all explosive substances used for mining, blasting, artillery, or sporting purposes, when valued at eighteen cents per pound or less, five mills per pound; when valued at above eighteen cents per pound, and not exceeding thirty cents per pound, one cent per pound; and when valued at above thirty cents per pound, six cents per pound;

On white lead, twenty-five cents per one hundred pounds;

On oxide of zinc, twenty-five cents per one hundred pounds;

On sulphate of barytes, ten cents per one hundred pounds: *Provided*, That white lead, oxide of zinc, and sulphate of barytes, *and paints and painters' colors*, or any one of them, shall not be subject to any additional duty in consequence of being mixed or ground with

\* As amended by the act of July 16, 1862. See III., *post*.

- linseed oil, when the duties upon all the materials so mixed or ground shall have been previously actually paid;
- On all paints and painters' colors, dry or ground in oil, or in paste with water, not otherwise provided for, five per centum ad valorem;
- [On clocks and time pieces, and on clock movements when sold without being cased, three per centum ad valorem;]
- On pins, solid head or other, five per centum ad valorem;
- On umbrellas and parasols, made of cotton, silk, or other material, *three* per centum ad valorem;
- On screws, commonly called wood screws, one and a half cent per pound;
- On railroad iron and all other iron advanced beyond slabs, blooms or loops, and not advanced beyond bars or rods, and band, hoop, and sheet iron, not thinner than number eighteen wire-gauge, and plate iron not less than one-eighth of an inch in thickness, one dollar and fifty cents per ton; on railroad iron, re-rolled, seventy-five cents per ton; on band, hoop, and sheet iron thinner than number eighteen wire-gauge, plate iron less than one-eighth of an inch in thickness, and cut nails and spikes, two dollars per ton: *Provided*, That bars, rods, bands, hoops, sheets, plates, nails, and spikes, manufactured from iron upon which the duty of one dollar and fifty cents has been levied and paid, shall be subject only to a duty of fifty cents per ton in addition thereto, anything in this act to the contrary notwithstanding. On stoves and hollow ware one dollar and fifty cents per ton of two thousand pounds; cast iron used for bridges, buildings, or other permanent structures, one dollar per ton: *Provided*, That bar iron used for like purposes shall be charged no additional duty beyond the specific duty imposed by this act. On steel in ingots, bars, sheets, or wire not less than one-fourth of an inch in thickness, valued at seven cents per pound or less, four dollars per ton; valued at above seven cents per pound, and not above eleven cents per pound, eight dollars per ton; valued above eleven cents per pound, ten dollars per ton;
- [On castings of iron, exceeding ten pounds in weight, for each casting not otherwise provided for in this act, or in the act to which this act is an amendment, one dollar and fifty cents per ton: *Provided*, That there shall be deducted from duties assessed upon railroad cars any duties which may have been assessed and paid upon car wheels under the provisions of this act;
- [On marine engines, three per centum ad valorem;
- [On rivets, exceeding one-fourth of one inch in diameter, nuts, wrought, railroad chairs, bolts, and horseshoes, two dollars per ton: *Provided*, That where a duty upon the iron from which said articles shall have been made has been actually paid, an additional duty only shall be paid of fifty cents per ton;
- [On rolled brass, copper, and yellow sheathing metal, in rods or sheets, one per centum ad valorem;
- [On sails, tents, shades, awnings, and bags, made of cotton, flax, or hemp, or part of either, or other materials, three per centum ad valorem: *Provided*, That the sewing of *sacils*, [sails,] tents, shades, awnings, carpets, and bags, the materials whereof belonged to the

- employer, shall be exempt from duty, where the cloth or material from which they are made was imported, or has been subject to and paid a duty ;]
- On paper of all descriptions, including pasteboard and binders' boards, three per centum ad valorem ;
  - On soap, castile, palm-oil, erasive, and soap of all other descriptions, white or colored, except soft soap and soap otherwise provided for, valued not above three and a half cents per pound, one mill per pound ; valued at above three and a half cents per pound, five mills per pound ;
  - On soap, fancy, scented, honey, cream, transparent, and all descriptions of toilet and shaving soap, two cents per pound ;
  - On salt, four cents per one hundred pounds ;
  - On pickles and preserved fruits, and on all preserved meats, fish, and shell-fish in cans or air-tight packages, five per centum ad valorem ;
  - On glue and gelatine of all descriptions, in the solid state, five mills per pound ;
  - On glue and cement, made wholly or in part of glue, to be sold in the liquid state, twenty-five cents per gallon ;
  - On patent or enamelled leather, five mills per square foot ;
  - On patent Japanned split, used for dasher leather, four mills per square foot ;
  - On patent or enamelled skirting leather, one and a half cent per square foot ;
  - On all sole and rough or harness leather, made from hides, imported east of the Cape of Good Hope, and all damaged leather, five mills per pound ;
  - On all other sole or rough leather, hemlock tanned, and harness leather, seven mills per pound ;
  - On all sole or rough leather, tanned in whole or in part with oak, one cent per pound ;
  - On all finished or curried upper leather, made from leather tanned in the interest of the parties finishing or currying such leather not previously taxed in the rough, except calf skins, one cent per pound ;
  - On bend and butt leather, one cent per pound ;
  - On offal leather, five mills per pound ;
  - On oil-dressed leather and deer skins, dressed or smoked, two cents per pound ;
  - On tanned calf skins, six cents each ;
  - On morocco, goat, kid, or sheep skins, curried, manufactured, or finished, four per centum ad valorem : *Provided*, That the price at which such skins are usually sold shall determine their value ;
  - On horse and hog skins, tanned and dressed, four per centum ad valorem ;
  - On American patent calf skins, five per centum ad valorem ;
  - On conducting hose of all kinds for conducting water or other fluids, a duty of three per centum ad valorem ;
  - On wine, made of grapes, five cents per gallon ;
  - On varnish, made wholly or in part of gum copal or other gums or substances, five per centum ad valorem ;

On furs of all descriptions, when made up or manufactured, three per centum ad valorem;

On cloth and all textile or knitted or felted fabrics of cotton, wool, or other material, before the same has been dyed, printed, bleached, or prepared in any other manner, a duty of three per centum ad valorem: *Provided*, That thread or yarn manufactured and sold or delivered exclusively for knitted fabrics, or for weaving, when the spinning and weaving for the manufacture of cloth of any kind is carried on separately, shall not be regarded as manufactures within the meaning of this act; but all fabrics of cotton, wool, or other material, whether woven, knit, or felted, shall be regarded as manufactures, and be subject to the duty, as above, of three per centum ad valorem;

On all diamonds, emeralds, and all other jewelry, a tax of three per centum ad valorem;

[On mineral or medicinal waters, or waters from springs impregnated with minerals, one cent for each bottle containing not more than one quart; when containing more than one quart, two cents for each bottle;

[Tailors, boot and shoe makers, milliners and dress-makers, making clothing or articles of dress for men's, women's or children's wear, to order as custom work, and not for sale generally, shall, to the amount of one thousand dollars, be exempt from duty, and for any excess beyond the amount of one thousand dollars shall pay a duty of one per centum ad valorem;

[On all ships, barques, brigs, schooners, sloops, sail boats, steamboats, (not including the engine,) canal boats, and all other vessels or water craft hereafter built, made, or constructed, two per cent;

[On all gold leaf fifteen cents per pack, containing not more than twenty books of twenty-five leaves each;]

On and after the first day of October, eighteen hundred and sixty-two, there shall be levied, collected and paid a tax of one-half of one cent per pound on all cotton held or owned by any person or persons, corporation, or association of persons; and such tax shall be a lien thereon in the possession of any person whomsoever. And further, if any person or persons, corporations, or association of persons, shall remove, carry, or transport the same from the place of its production before said tax shall have been paid, such person or persons, corporation or association of persons, shall forfeit and pay to the United States double the amount of such tax, to be recovered in any court having jurisdiction thereof: *Provided, however*, That the commissioner of internal revenue is hereby authorized to make such rules and regulations as he may deem proper for the payment of said tax at places different from that of the production of said cotton: *And provided, further*, That all cotton owned and held by any manufacturer of cotton fabrics on the first day [of] October, eighteen hundred and sixty-two, and prior thereto, shall be exempt from the tax hereby imposed;

On all manufactures of cotton, wool, silk, worsted, flax, hemp, jute, India-rubber, gutta-percha, wood, willow, glass, pottery-ware, leather, paper, iron, steel, lead, tin, copper, zinc, brass, gold, silver, horn, ivory, bone, bristles, wholly or in part, or of other

materials, not in this act otherwise provided for, a duty of three per centum ad valorem: *Provided*, That on all cloths dyed, printed, bleached, manufactured into other fabrics, or otherwise prepared, on which a duty or tax shall have been paid before the same were so dyed, printed, bleached, manufactured, or prepared, the said duty or tax of three per centum shall be assessed only upon the increased value thereof: *And provided, further*, That on all oil-dressed leather, and deer skins dressed or smoked, manufactured into gloves, mittens, or other articles on which a duty or tax shall have been paid before the same were so manufactured, the said duty or tax of three per centum shall be assessed only upon the increased valuation thereof: *And provided, further*, That in estimating the duties upon articles manufactured when removed and sold at any other place than the place of manufacture, there shall be deducted from the gross amount of sales the freight, commission, and expenses of sale actually paid, and the duty shall be assessed and paid upon the net amount after the deductions as aforesaid: *And provided, further*, That printed books, magazines, pamphlets, newspapers, reviews, and all other similar printed publications; boards, shingles, and all other lumber and timber; staves, hoops, headings, and timber only partially wrought and unfinished for chairs, tubs, pails, snathes, lasts, shovel and fork handles; umbrella stretchers; pig iron, and iron not advanced beyond slabs, blooms, or loops; maps and charts; charcoal; alcohol made or manufactured of spirits or materials upon which the duties imposed by this act shall have been paid; plaster or gypsum; malt; burning fluid; printers' ink; flax prepared for textile or felting purposes, until actually woven or fitted into fabrics for consumption; all flour and meal made from grain; bread and breadstuffs; pearl barley and split peas; butter; cheese; concentrated milk; bullion, in the manufacture of silverware; brick; lime; Roman cement; draining tiles; marble; slate; building stone; copper, in ingots or pigs; and lead, in pigs or bars, shall not be regarded as manufactures within the meaning of this act: *Provided*, That whenever, by the provisions of this act, a duty is imposed upon any article removed for consumption or sale, it shall apply only to such articles as are manufactured on or after the first day of August, eighteen hundred and sixty-two, and to such as are manufactured and not removed from the place of manufacture prior to that date.

[Sec. 29 (of act of March 3, '68). *And be it further enacted*, That spokes, hubs, felloes, grindstones, coke, silver bullion, rolled or prepared for platers' use exclusively; materials for the manufacture of hoop skirts exclusively, and unfitted for other use, (such as steel wire, rolled, tempered, or covered, cut tapes, and small wares for joining hoops together;) spindles, and castings of all descriptions, where made exclusively for instruments, articles, or machinery upon which duties are assessed and paid, shall be exempt from duty; and all goods, wares, and merchandise, and articles made or manufactured from materials which have been subject to and upon which internal

duties have been actually paid, or materials imported upon which duties have been paid, or upon which no duties are imposed by law, where the increased value of such goods, wares, and merchandise, and articles so made and manufactured, shall not exceed the amount of five per centum ad valorem, shall be and hereby are exempt from duty.

[SEC. 30. *And be it further enacted*, That on all cloths of silk, cotton, or other material, dyed, printed, bleached, manufactured, or prepared into other fabrics, which were removed from the place of manufacture prior to the first of September, eighteen hundred and sixty-two, or which have been or shall be imported, the duty or tax of three per centum shall be assessed only upon the increased value thereof: *Provided, further*, That whenever the duty has been assessed, or assessed and collected at the full value thereof upon cloths of silk, cotton, or other material manufactured and removed from the place of manufacture prior to the first of September, eighteen hundred and sixty-two, or which were imported prior to the passage of this act, and which have been dyed, printed, bleached, manufactured, or otherwise prepared into other fabrics since the said first of September, eighteen hundred and sixty-two, the commissioner of internal revenue, subject to the regulation of the secretary of the treasury, shall be and he hereby is authorized and directed to remit, refund, and pay back such proportion of said duties as were assessed upon the value of such cloths before the same were so dyed, printed, bleached, manufactured, or otherwise prepared.

[SEC. 31. *And be it further enacted*, That the commissioner of internal revenue, subject to the regulations of the secretary of the treasury, shall be and hereby is authorized to remit, refund, and pay back all duties erroneously or illegally assessed or collected, and all judgments or sums of money recovered in any court against any collector or deputy collector for any duties or licenses paid under protest.

[SEC. 32. *And be it further enacted*, That manufactures of lard oil, lubricating oil, and linseed oil shall be subject to the provisions of the act to which this is an amendment, relating to distillers of spirituous liquors, and designed for the purpose of ascertaining the quantity produced, so far as the same may, in the judgment of the commissioner of internal revenue, and under regulations to be prescribed by him, be deemed necessary.

[SEC. 33. *And be it further enacted*, That the provisions of the act to which this act is an amendment, in relation to returns by manufacturers, and the payment and collection of duties upon manufactured articles, enumerated in section seventy-five of said act, shall be and hereby are made applicable to the producers of articles which are also mentioned in said section, and on which taxes are levied.

[SEC. 34. *And be it further enacted*, That there shall be designated by the collector in every district, where the same may be necessary, one or more inspectors of manufactured tobacco, who shall take an oath faithfully to perform their duties in such form as the commissioner of internal revenue shall prescribe, and who shall be entitled to receive such fees as may be fixed and prescribed by said commissioner. And all manufactured tobacco shall, before the same is used or removed for consumption or sale, be inspected and weighed by an

inspector, designated as aforesaid, who shall mark upon the box or other package containing such tobacco, in a manner to be prescribed by said commissioner, the quality and weight of the contents of such package, with the date of inspection and the name of the inspector. The fees of such inspector shall in all cases be paid by the owner of the tobacco so inspected and weighed. The penalties for the fraudulent marking of any package of tobacco, and for any fraudulent attempt to evade the duties on tobacco, so inspected, by changing in any manner the package or the marks thereon, shall be the same as are provided in relation to distilled spirits by existing laws. That manufactured tobacco may be removed from the place of manufacture for the purpose of being exported, after the quantity and quality to be so removed shall have been ascertained by inspection, according to the provisions of this act, upon and with the written permission of the collector or deputy collector of the district, without payment of the duties thereon previous to such removal, the owner thereof having given bond to the United States, with sufficient sureties, in the manner and form and under regulations to be prescribed by the commissioner of internal revenue, and in at least double the amount of said duties, to export the said manufactured tobacco or pay the duties thereon within such time as may be stated in the bond; and all the provisions relative to the exportation of distilled spirits in bond, contained in the act to which this is an amendment, as far as the same may be applicable, shall be applied to the exportation of tobacco in bond: *Provided, however,* That nothing herein contained shall be considered to apply to snuff, fine cut tobacco, or cigars.]

#### AUCTION SALES.

**Sec. 76.** *And be it further enacted,* That on and after the first day of August, eighteen hundred and sixty-two, there shall be levied, collected, and paid on all sales of real estate, goods, wares, merchandise, articles, or things at auction, including all sales of stocks, bonds, and other securities, a duty of one-tenth of one per centum on the gross amount of such sales, and every auctioneer making such sales, as aforesaid, shall at the end of each and every month, or within ten days thereafter, make a list or return to the assistant assessor of the district of the gross amount of such sales, made as aforesaid, with the amount of duty which has accrued, or should accrue thereon, which list shall have annexed thereto a declaration under oath or affirmation, in form and manner as may be prescribed by the commissioner of internal revenue, that the same is true and correct, and shall at the same time, as aforesaid, pay to the collector or deputy collector the amount of duty or tax thereupon, as aforesaid, and in default thereof shall be subject to and pay a penalty of five hundred dollars. In all cases of delinquency in making said list or payment the assessment and collection shall be made in the manner prescribed in the general provisions of this act: *Provided,* That no duty shall be levied under the provisions of this section upon any sales by judicial or executive officers making auction sales by virtue of a judgment or decree of any court, nor to public sales made by executors or administrators.



## CARRIAGES, YACHTS, BILLIARD-TABLES, AND PLATE.

**Sec. 77.** *And be it further enacted,* That from and after the first day of May, eighteen hundred and sixty-two, there shall be levied, collected, and paid, by any person or persons owning, possessing, or keeping any carriage, yacht, and billiard-table, the several duties or sums of money set down in figures against the same respectively, or otherwise specified and set forth in schedule marked A.

*That section seventy-seven be and hereby is amended, by requiring the taxes provided for in that section to be levied, collected, and paid annually, by any person or persons owning, possessing, or keeping any carriage, yacht, plate, or billiard-table; by inserting in the first paragraph of Schedule A, after the words "kept for use," the words "for hire or for passengers;" and by exempting from duty plate belonging to religious societies. (As amended, act of March 3, '68, § 1.)*

## SCHEDULE A.

## CARRIAGES, YACHTS, BILLIARD-TABLES, AND PLATE.

	Duty. Dols etc
Carriage, rig, chaise, phaeton, wagon, buggy-wagon, carryall, rockaway, or other like carriage, the body of which rests upon springs of any description, kept for use, and which shall not be exclusively employed in husbandry or for transportation of merchandise, and valued at seventy-five dollars or over, including the harness used therewith, when drawn by one horse, one dollar.....	1 00
Carriages of like description drawn by two horses, and any coach, hackney-coach, omnibus, or four wheel carriage, the body of which rests upon springs of any description, which may be kept for use, for hire, or for passengers, and which shall not be exclusively employed in husbandry or for transportation of merchandise, valued at seventy-five dollars, and not exceeding two hundred dollars, including the harness used therewith, drawn by two horses or more, two dollars.....	2 00
Carriages of like description, when valued above two hundred dollars, and not exceeding six hundred dollars, five dollars.....	5 00
Carriages of like description, valued above six hundred dollars, ten dollars.....	10 00
Pleasure or racing vessels, known as yachts, whether by sail or steam, under the value of six hundred dollars, five dollars.....	5 00
Yachts valued above six hundred dollars, and not exceeding one thousand dollars, ten dollars.....	10 00
And for each additional one thousand dollars in value of said yachts, ten dollars.....	10 00
Billiard-tables, kept for use, ten dollars.....	10 00
Plate of gold, kept for use, per ounce troy, fifty cents.....	50
Plate of silver, kept for use, per ounce troy, three cents.....	3
<i>Provided,</i> That silver spoons or plate of silver, to an amount not exceeding forty ounces, as aforesaid, belonging to any one person, shall be exempt from duty.	

## SLAUGHTERED CATTLE, HOGS, AND SHEEP.

**Sec. 78.** *And be it further enacted,* That on and after the first day of August, eighteen hundred and sixty-two, there shall be levied, collected, and paid by any person or persons, firms, companies, or agents or employees thereof, the following duties or taxes, that is to say:  
 On all horned cattle exceeding eighteen months old, slaughtered for sale, thirty cents per head;  
 On all calves and cattle under eighteen months old, slaughtered for sale, five cents per head.

On all hogs, exceeding six months old, slaughtered for sale, when the number thus slaughtered exceeds twenty in any one year, ten cents per head;

On all sheep, slaughtered for sale, five cents per head: *Provided*, That all cattle, hogs, and sheep, slaughtered by any person for his or her own consumption, shall be exempt from duty.

*That section seventy-eight be and hereby is amended, by reducing the duty so that on horned cattle slaughtered, the duty shall be twenty cents per head; on sheep and lambs slaughtered the duty shall be three cents per head; and on hogs slaughtered, exceeding one hundred pounds in weight, without regard to age, six cents each, and no duty shall be charged on hogs slaughtered of less weight; and the cattle, hogs, and sheep slaughtered by any person for his or her own consumption, not exceeding six of each, shall be exempt from duty. (As amended, act of March 3, '68, § 1.)*

**Sec. 79.** *And be it further enacted*, That on and after the date on which this act shall take effect, any person or persons, firms, or companies, or agents or employees thereof, whose business or occupation it is to slaughter for sale any cattle, calves, sheep, or hogs, shall be required to make and render a list at the end of each and every month to the assistant assessor of the district where the business is transacted, stating the number of cattle, calves, if any, the number of hogs, if any, and the number of sheep, if any, slaughtered, as aforesaid, with the several rates of duty as fixed therein in this act, together with the whole amount thereof, which list shall have annexed thereto a declaration of said person or persons, agents or employees thereof, as aforesaid, under oath or affirmations, in such manner and form as may be prescribed by the commissioner of internal revenue, that the same is true and correct, and shall, at the time of rendering said list, pay the full amount of duties which have accrued or should accrue, as aforesaid, to the collector or deputy collector of the district, as aforesaid; and in case of default in making the return or payment of the duties, as aforesaid, the assessment and collection shall be made as in the general provisions of this act required, and in case of fraud or evasion the party offending shall forfeit and pay a penalty of ten dollars per head for any cattle, calves, hogs, or sheep so slaughtered upon which the duty is fraudulently withheld, evaded, or attempted to be evaded: *Provided*, That the commissioner of internal revenue shall prescribe such further rules and regulations as he may deem necessary for ascertaining the correct number of cattle, calves, hogs, and sheep liable to be taxed under the provisions of this act.

#### RAILROADS, STEAMBOATS, AND FERRY-BOATS.

**Sec. 80.** *And be it further enacted*, That on and after the first day of August, eighteen hundred and sixty-two, any person or persons, firms, companies, or corporations, owning or possessing, or having the care or management of any railroad or railroads upon which steam is used as a propelling power, or of any steamboat or other vessel propelled by steam-power, shall be subject to and pay a duty of three per centum on the gross amount of all the receipts of such railroad or

railroads or steam vessel for the transportation of passengers over and upon the same; and any person or persons, firms, companies, or corporations, owning or possessing, or having the care or management of any railroad or railroads using any other power than steam thereon, or owning, possessing, or having the care or management of any ferry-boat, or vessel used as a ferry-boat, propelled by steam or horse power, shall be subject to and pay a duty of one and a half per centum upon the gross receipts of such railroad or ferry-boat, respectively, for the transportation of passengers over and upon said railroads, steamboats, and ferry-boats, respectively; and any person or persons, firms, companies, or corporations, owning, possessing, or having the care or management of any bridge authorized by law to receive toll for the transit of passengers, beasts, carriages, teams, and freight of any description over such bridge, shall be subject to and pay a duty of three per centum on the gross amount of all their receipts of every description. And the owner, possessor, or person or persons having the care and management of any such railroad, steamboat, ferry-boat, or other vessel, or bridge, as aforesaid, shall, within five days after the end of each and every month, commencing as hereinbefore mentioned, make a list or return to the assistant assessor of the district within which such owner, possessor, company, or corporation may have his or its place of business, or where any such railroad, steamboat, ferry-boat, or bridge is located or belongs, respectively, stating the gross amount of such receipts for the month next preceding, which return shall be verified by the oath or affirmation of such owner, possessor, manager, agent, or other proper officer, in the manner and form to be prescribed from time to time by the commissioner of internal revenue, and shall also, monthly, at the time of making such return, pay to the collector or deputy collector of the district the full amount of duties which have accrued on such receipts for the month aforesaid; and in case of neglect or refusal to make said lists or return for the space of five days after such return should be made as aforesaid, the assessor or assistant assessor shall proceed to estimate the amount received and the duties payable thereon, as hereinbefore provided in other cases of delinquency to make return for purposes of assessment; and for the purpose of making such assessment, or of ascertaining the correctness of any such return, the books of any such person, company, or corporation shall be subject to the inspection of the assessor or assistant assessor on his demand or request therefor; and in case of neglect or refusal to pay the duties as aforesaid when the same have been ascertained as aforesaid for the space of five days after the same shall have become payable, the owner, possessor, or person having the management as aforesaid, shall pay, in addition, five per centum on the amount of such duties; and for any attempt knowingly to evade the payment of such duties, the said owner, possessor, or person having the care or management as aforesaid, shall be liable to pay a penalty of one thousand dollars for every such attempt, to be recovered as provided in this act for the recovery of penalties; and all provisions of this act in relation to liens and collections by distraint not incompatible herewith shall apply to this section and the objects therein embraced: *Provided*, That all such per-

sons, companies, and corporations shall have the right to add the duty or tax imposed hereby to their rates of fare whenever their liability thereto may commence, any limitations which may exist by law or by agreement with any person or company which may have paid or be liable to pay such fare to the contrary notwithstanding.

[*Sec. 8 (of act of March 3, '63). And be it further enacted,* That, on and after the passage of this act, any person or persons owning or possessing, or having the care or management of any canal company or canal navigation or slack-water corporation, or turnpike companies, being indebted for any sum or sums of money for which bonds or other evidences of indebtedness have been issued, payable in one or more years after date, upon which interest is, or shall be, stipulated to be paid, or coupons representing the interest, shall be or shall have been issued to be paid; and all dividends in scrip or money, or sums of money thereafter declared due or payable to stockholders of any canal navigation, or slack-water or turnpike company, as part of the earnings, profits, or gains, of said companies, shall be subject to and pay a duty of three per centum on the amount of all such interest, or coupons, or dividends, whenever the same shall be paid; and said canal companies or canal navigation, or slack-water corporations, or turnpike companies, or any person or persons owning, possessing, or having the care or management of any canal company, or canal navigation, or slack-water corporation, or turnpike company, are hereby authorized and required to deduct and withhold from all payments made to any person, persons, or party, after the first day of July, as aforesaid, on account of any interest, or coupons, or dividends due and payable, as aforesaid, the said duty or sum of three per centum; and the duties deducted, as aforesaid, and certified by the president or other proper officer of said company or corporation, shall be a receipt and discharge, according to the amount thereof, of said canal companies or canal navigation, or slack-water corporations, or turnpike companies, and the owners, possessors, and agents thereof, on dividends and on bonds or other evidences of their indebtedness upon which interest or coupons are payable, holden by any person or party whatsoever, and a list or return shall be made and rendered within thirty days after the time fixed when said interest or coupons or dividends become due or payable, and as often as every six months, to the commissioner of internal revenue, which shall contain a true and faithful account of the duties received and chargeable, as aforesaid, during the time when such duties have accrued or should accrue, and remaining unaccounted for; and there shall be annexed to every such list or return a declaration, under oath or affirmation, in manner and form as may be prescribed by the commissioner of internal revenue, of the president, treasurer, or some proper officer of said canal company or canal or navigation and slack-water corporation or turnpike companies, that the same contains a true and faithful account of the duties so withheld and received during the time when such duties have accrued or should accrue, and not accounted for; and for any default in the making or rendering of such list or return, with the declaration annexed, as aforesaid, the person or persons owning, possessing, or having the care or management of such canal company or canal, navi-

gation or slack-water corporation or turnpike companies, making such default, shall forfeit, as a penalty, the sum of five hundred dollars; and in case of any default in making or rendering said list, or of any default in the payment of the duty, or any part thereof, accruing or which should accrue, the assessment and collection shall be made according to the general provisions of the act to which this act is an amendment.

[Sec. 9. *And be it further enacted*, That any person or persons, firms, companies, or corporations, owning or possessing or having the care or management of any ferry-boat or vessel used as a ferry-boat, propelled by steam or horse power, in lieu of the duties now imposed by law, shall be subject to pay a duty of one and one-half of one per centum upon the gross receipts of such ferry-boat; and the return and payment thereof shall be made in the manner prescribed in the act to which this act is an amendment.

[Sec. 10. *And be it further enacted*, That on and after the first day of April, eighteen hundred and sixty-three, any person or persons, firms, companies, or corporations carrying on or doing an express business shall, in lieu of the tax and stamp duties imposed by existing laws, be subject to and pay a duty of two per centum on the gross amount of all the receipts of such express business, and shall be subject to the same provisions, rules, and penalties as are prescribed in section eighty of the act to which this is an amendment, for the persons, firms, companies, or corporations owning or possessing or having the management of railroads, steamboats, and ferry-boats; and all acts or parts of acts inconsistent herewith are hereby repealed.]

#### RAILROAD BONDS.

**Sec. 81.** *And be it further enacted*, That on and after the first day of July, eighteen hundred and sixty-two, any person or persons owning or possessing, or having the care or management of any railroad company or railroad corporation, being indebted for any sum or sums of money for which bonds or other evidences of indebtedness have been issued, payable in one or more years after date, upon which interest is, or shall be, stipulated to be paid, or coupons representing the interest shall be or shall have been issued to be paid, and all dividends in scrip or money or sums of money thereafter declared due or payable to stockholders of any railroad company, as part of the earnings, profits, or gains of said companies, shall be subject to and pay a duty of three per centum on the amount of all such interest, or coupons, or dividends, whenever the same shall be paid; and said railroad companies or railroad corporations, or any person or persons owning, possessing, or having the care or management of any railroad company or railroad corporation, are hereby authorized and required to deduct and withhold from all payments made to any person, persons, or party, after the first day of July, as aforesaid, on account of any interest or coupons or dividends due and payable as aforesaid, the said duty or sum of three per centum; and the duties deducted as aforesaid, and certified by the president or other proper officer of said company or corporation, shall be a receipt and discharge, according to the amount

thereof, of said railroad companies or railroad corporations, and the owners, possessors, and agents thereof, on dividends and on bonds, or other evidences of their indebtedness, upon which interest or coupons are payable, holden by any person or party whatsoever, and a list or return shall be made and rendered within thirty days after the time fixed when said interest or coupons or dividends become due or payable, and as often as every six months, to the commissioner of internal revenue, which shall contain a true and faithful account of the duties received and chargeable, as aforesaid, during the time when such duties have accrued or should accrue, and remaining unaccounted for; and there shall be annexed to every such list or return a declaration under oath or affirmation, in manner and form as may be prescribed by the commissioner of internal revenue, of the president, treasurer, or some proper officer of said railroad company or railroad corporation, that the same contains a true and faithful account of the duties so withheld and received during the time when such duties have accrued or should accrue, and not accounted for, and for any default in the making or rendering of such list or return, with the declaration annexed, as aforesaid, the person or persons owning, possessing, or having the care or management of such railroad company or railroad corporation, making such default, shall forfeit, as a penalty, the sum of five hundred dollars; and in case of any default in making or rendering said list, or of any default in the payment of the duty, or any part thereof, accruing or which should accrue, the assessment and collection shall be made according to the general provisions of this act.

#### BANKS, TRUST COMPANIES, SAVINGS INSTITUTIONS, AND INSURANCE COMPANIES.

**Sec. 82.** *And be it further enacted,* That on and after the first day of July, eighteen hundred and sixty-two, there shall be levied, collected, and paid by all banks, trust companies, and savings institutions, and by all fire, marine, life, inland, stock, and mutual insurance companies, under whatever style or name known or called, of the United States or Territories, specially incorporated or existing under general laws, or which may be hereafter incorporated or exist as aforesaid, on all dividends in scrip or money thereafter declared due or paid to stockholders, to policy holders, or to depositors, as part of the earnings, profits, or gains of said banks, trust companies, savings institutions, or insurance companies, and on all sums added to their surplus or contingent funds, a duty of three per centum: *Provided,* That the duties upon the dividends of life insurance companies shall not be deemed due, or to be collected until such dividends shall be payable by such companies. And said banks, trust companies, savings institutions, and insurance companies are hereby authorized and required to deduct and withhold from all payments made to any person, persons, or party, on account of any dividends or sums of money that may be due and payable, as aforesaid, after the first day of July, eighteen hundred and sixty-two, the said duty of three per centum. And a list or return shall be made and rendered within thirty days after the time fixed when such dividends or sums of money shall be

declared due and payable, and as often as every six months, to the commissioner of internal revenue, which shall contain a true and faithful account of the amount of duties accrued or which should accrue from time to time, as aforesaid, during the time when such duties remain unaccounted for, and there shall be annexed to every such list or return a declaration, under oath or affirmation, to be made in form and manner as shall be prescribed by the commissioner of internal revenue, of the president, or some other proper officer of said bank, trust company, savings institution, or insurance company, respectively, that the same contains a true and faithful account of the duties which have accrued or should accrue, and not accounted for, and for any default in the delivery of such list or return, with such declaration annexed, the bank, trust company, savings institution, or insurance company making such default shall forfeit, as a penalty, the sum of five hundred dollars.

[*Sec. 8 (of act of March 3, '63). And be it further enacted, That any person or persons, firm, company, or corporation, who shall issue tickets or contracts of insurance against fatal or non-fatal injury to persons while traveling by land or water, shall pay a duty of one per centum on the gross amount of all the receipts for such insurance, and shall be subject to all the provisions and regulations of existing law applicable thereto, in relation to insurance companies: Provided, That no stamp duty shall be required upon tickets or contracts of insurance, as aforesaid, when limited to fatal or non-fatal injury to persons while travelling.*

[*Sec. 14. And be it further enacted, That every incorporated bank, or other bank legally authorized to issue notes as circulation, which shall neglect or omit to make dividends or additions to its surplus or contingent fund as often as once in six months, shall, in lieu thereof, make returns, under oath, to the commissioner of internal revenue, on the first days of January and July in each year, or within thirty days thereafter, of the amount of profits which have accrued or been earned and received by said bank during the six months next preceding said first days of January and July; and, at the time of making such returns, shall pay to the commissioner of internal revenue a duty of three per cent on such profits, and shall be subject to the provisions of the eighty-second section of the act to which this is an addition: Provided, That the return for the first of January, eighteen hundred and sixty-three, shall be made within thirty days after the passage of this act.*

**Sec. 83.** *And be it further enacted, That any person or persons owning or possessing, or having the care or management of any railroad company or railroad corporation, bank, trust company, savings institution, or insurance company, as heretofore mentioned, required under this act to make and render any list or return to the commissioner of internal revenue, shall, upon rendering the same, pay to the said commissioner of internal revenue the amount of the duties due on such list or return, and in default thereof shall forfeit as a penalty the sum of five hundred dollars; and in case of neglect or refusal to make such list or return as aforesaid, or to pay the duties as aforesaid, for the space of thirty days after the time when said list should*

been made and rendered, or when said duties shall have become and payable, the assessment and collection shall be made according to the general provisions heretofore prescribed in this act.

**Sec. 84.** *And be it further enacted,* That on the first day of October, Anno Domini eighteen hundred and sixty-two, and on the first day of each quarter of a year thereafter, there shall be paid by each insurance company, whether inland or marine, and by each individual association engaged in the business of insurance from loss or damage by fire or by the perils of the sea, the duty of one per centum upon the gross receipts for premiums and assessments by such individual, association or company during the quarter then preceding; and like duty shall be paid by the agent of any foreign insurance company having an office or doing business within the United States.

**Sec. 85.** *And be it further enacted,* That on the first day of October next, and on the first day of each quarter thereafter, an account shall be made and rendered to the commissioner of internal revenue by all insurance companies, or their agents, or associations or individuals making insurance, except life insurance, including agents of all foreign insurance companies, which shall contain a true and faithful account of the insurance made, renewed, or continued, or indorsed upon any open policy, by said companies, or their agents, or associations, or individuals, during the preceding quarter, setting forth the amount insured, and the gross amount received, and the duties accruing thereon under this act; and there shall be annexed to and delivered with every such quarterly account an affidavit, in the form to be prescribed by the commissioner of internal revenue, made by one of the officers of said company or association, or individual, or by the agent in the case of a foreign company, that the statements in said accounts are in all respects just and true; and such quarterly accounts shall be rendered to the commissioner of internal revenue within thirty days after the expiration of the quarter for which they shall be made up, and upon rendering such account, with such affidavit, as aforesaid, thereto annexed, the amount of the duties due by such quarterly accounts shall be paid to the commissioner of internal revenue; and for every default in the delivery of such quarterly account, with such affidavit annexed thereto, or in the payment of the amount of the duties due by such quarterly account, the company, or agent, or association, or individual making such default shall forfeit and pay, in addition to such duty, the sum of five thousand dollars.

#### SALARIES AND PAY OF OFFICERS AND PERSONS IN THE SERVICE OF THE UNITED STATES, AND PASSPORTS.

**Sec. 86.** *And be it further enacted,* That on and after the first day of August, eighteen hundred and sixty-two, there shall be levied, collected, and paid on all salaries of officers, or payments to persons in the civil, military, naval, or other employment or service of the United States, including senators and representatives and delegates in congress, when exceeding the rate of six hundred dollars per annum, a duty of three per centum on the excess above the said six



hundred dollars; and it shall be the duty of all paymasters, and all disbursing officers, under the Government of the United States, or in the employ thereof, when making any payments to officers and persons as aforesaid, or upon settling and adjusting the accounts of such officers and persons, to deduct and withhold the aforesaid duty of three per centum, and shall, at the same time, make a certificate stating the name of the officer or person from whom such deduction was made, and the amount thereof, which shall be transmitted to the office of the commissioner of internal revenue, and entered as part of the internal duties; and the pay-roll, receipts, or account of officers or persons paying such duty, as aforesaid, shall be made to exhibit the fact of such payment.

**Sec. 87.** *And be it further enacted,* That for every passport issued from the office of the secretary of state, after the thirtieth day of June, eighteen hundred and sixty-two, there shall be paid the sum of three dollars; which amount may be paid to any collector appointed under this act, and his receipt therefor shall be forwarded with the application for such passport to the office of the secretary of state, or any agent appointed by him. And the collectors shall account for all moneys received for passports in the manner hereinbefore provided, and a like amount shall be paid for every passport issued by any minister or consul of the United States, who shall account therefor to the treasury.

#### ADVERTISEMENTS.

**Sec. 88.** *And be it further enacted,* That on and after the first day of August, eighteen hundred and sixty-two, there shall be levied, collected, and paid by any person or persons, firm, or company, publishing any newspaper, magazine, review, or other literary, scientific, or news publication, issued periodically, on the gross receipts for all advertisements, or all matters for the insertion of which in said newspaper or other publication, as aforesaid, or in extras, supplements, sheets, or fly-leaves accompanying the same, pay is required or received, a duty of three per centum; and the person or persons, firm or company, owning, possessing, or having the care or management of any and every such newspaper or other publication, as aforesaid, shall make a list or return quarterly, commencing as heretofore mentioned, containing the gross amount of receipts as aforesaid, and the amount of duties which have accrued thereon, and render the same to the assistant assessor of the respective districts where such newspaper, magazine, review, or other literary or news publication is or may be published, which list or return shall have annexed a declaration, under oath or affirmation, to be made according to the manner and form which may be from time to time prescribed by the commissioner of internal revenue, of the owner, possessor, or person having the care or management of such newspaper, magazine, review or other publication, as aforesaid, that the same is true and correct, and shall also, quarterly, and at the time of making said list or return, pay to the collector or deputy collector of the district, as aforesaid, the full amount of said duties; and in case of neglect or

refusal to comply with any of the provisions contained in this section, or to make and render said list or return, as aforesaid, for the space of thirty days after the time when said list or return ought to have been made, as aforesaid, the assistant assessor of the respective districts shall proceed to estimate the duties, as heretofore provided in other cases of delinquency; and in case of neglect or refusal to pay the duties, as aforesaid, for the space of thirty days after said duties become due and payable, said owner, possessor, or person or persons having the care or management of said newspapers or publications, as aforesaid, shall pay, in addition thereto, a penalty of five per centum on the amount due; and in case of fraud or evasion, whereby the revenue is attempted to be defrauded, or the duty withheld, said owners, possessors, or person or persons having the care or management of said newspapers or other publications, as aforesaid, shall forfeit and pay a penalty of five hundred dollars for each offence, or for any sum fraudulently unaccounted for; and all provisions in this act in relation to liens, assessments, and collection, not incompatible herewith, shall apply to this section and the objects herein embraced: *Provided*, That in all cases where the rate or price of advertising is fixed by any law of the United States, State, or Territory, it shall be lawful for the company, person or persons, publishing said advertisements, to add the duty or tax imposed by this act to the price of said advertisements, any law, as aforesaid, to the contrary notwithstanding: *Provided, further*, That the receipts for advertisements to the amount of one thousand dollars, by any person or persons, firm, or company, publishing any newspaper, magazine, review, or other literary, scientific, news publication, issued periodically, shall be exempt from duty: *And provided, further*, That all newspapers whose circulation does not exceed two thousand copies shall be exempted from all taxes for advertisements.

#### INCOME DUTY.

**Sec. 89.** *And be it further enacted*, That for the purpose of modifying and re-enacting, as hereinafter provided, so much of an act, entitled "An act to provide increased revenue from imports to pay interest on the public debt, and for other purposes," approved fifth of August, eighteen hundred and sixty-one, as relates to income tax; that is to say, sections forty-nine, fifty, (except so much thereof as relates to the selection and appointment of depositaries,) and fifty-one, be, and the same are hereby, repealed.

**Sec. 90.** *And be it further enacted*, That there shall be levied, collected, and paid annually, upon the annual gains, profits, or income of every person residing in the United States, whether derived from any kind of property, rents, interest, dividends, salaries, or from any profession, trade, employment, or vocation carried on in the United States or elsewhere, or from any other source whatever, except as hereinafter mentioned, if such annual gains, profits, or income exceed the sum of six hundred dollars, and do not exceed the sum of ten thousand dollars, a duty of three per centum on the amount of such annual gains, profits, or income over and above the said sum of six

hundred dollars; if said income exceeds the sum of ten thousand dollars, a duty of five per centum upon the amount thereof exceeding six hundred dollars; and upon the annual gains, profits, or income, rents, and dividends accruing upon any property, securities, and stocks owned in the United States by any citizen of the United States, residing abroad, except as hereinafter mentioned, and not in the employment of the Government of the United States, there shall be levied, collected, and paid a duty of five per centum.

**Sec. 91.** *And be it further enacted,* That in estimating said annual gains, profits, or income, whether subject to a duty, as provided in this act, of three per centum, or of five per centum, all other national, State, and local taxes, lawfully assessed upon the property or other sources of income of any person as aforesaid, from which said annual gains, profits, or income of such person is or should be derived, shall be first deducted from the gains, profits, or income of the person or persons who actually pay the same, whether owner or tenant, and all gains, profits, or income derived from salaries of officers, or payments to persons in the civil, military, naval, or other service of the United States, including senators, representatives, and delegates in congress, above six hundred dollars, or derived from interest or dividends on stock, capital, or deposits in any bank, trust company, or savings institution, insurance, [gas,]\* bridge, express, telegraph, steamboat, ferry-boat, or railroad company, or corporation, or on any bonds, or other evidences of indebtedness of any railroad company or other corporation, which shall have been assessed and paid by said banks, trust companies, savings institutions, insurance, [gas,] bridge, telegraph, steamboat, ferry-boat, express, or railroad companies, as aforesaid, or derived from advertisements, [or on any articles manufactured,] upon which specific, stamp or ad valorem duties shall have been directly assessed or paid, shall also be deducted; and the duty herein provided for shall be assessed and collected upon the income for the year ending the thirty-first day of December next preceding the time for levying and collecting said duty, that is to say, on the first day of May, eighteen hundred and sixty-three, and in each year thereafter: *Provided,* That upon such portion of said gains, profits, or income, whether subject to a duty as provided in this act of three per centum or five per centum, which shall be derived from interest upon notes, bonds, or other securities of the United States, there shall be levied, collected, and paid a duty not exceeding one and one-half of one per centum, anything in this act to the contrary notwithstanding.

[**SEC. 11** (of act of March 3, '63). *And be it further enacted,* That in estimating the annual gains, profit, or income of any person, under the act to which this act is an amendment, the amount actually paid by such person for the rent of the dwelling-house or estate on which he resides shall be first deducted from the gains, profit, or income of such person.]

**Sec. 92.** *And be it further enacted,* That the duties on incomes herein imposed shall be due and payable on or before the thirtieth day of June, in the year eighteen hundred and sixty-three, and in each year

\* Strike out the words within brackets. (Act of March 3, '63, § 1.)

thereafter, until and including the year eighteen hundred and sixty-six, and no longer; and to any sum or sums annually due and unpaid for thirty days after the thirtieth of June, as aforesaid, and for ten days after demand thereof by the collector, there shall be levied, in addition thereto, the sum of five per centum on the amount of duties unpaid, as a penalty, except from the estates of deceased and insolvent persons; and if any person or persons, or party, liable to pay such duty, shall neglect or refuse to pay the same, the amount due shall be a lien in favor of the United States from the time it was so due until paid, with the interest, penalties, and costs that may accrue in addition thereto, upon all the property, and rights to property, stocks, securities, and debts of every description from which the income upon which said duty is assessed or levied shall have accrued or may or should accrue; and in default of the payment of said duty for the space of thirty days, after the same shall have become due, and be demanded, as aforesaid, said lien may be enforced by distraint upon such property, rights to property, stocks, securities, and evidences of debt, by whomsoever holden; and for this purpose, the commissioner of internal revenue, upon the certificate of the collector or deputy collector that said duty is due and unpaid for the space of ten days after notice duly given of the levy of such duty, shall issue a warrant, in form and manner to be prescribed by said commissioner of internal revenue, under the directions of the secretary of the treasury, and by virtue of such warrant there may be levied on such property, rights to property, stocks, securities, and evidences of debt, a further sum, to be fixed and stated in such warrant, over and above the said annual duty, interest, and penalty for non-payment, sufficient for the fees and expenses of such levy. And in all cases of sale, as aforesaid, the certificate of such sale by the collector or deputy collector of the sale, shall give title to the purchaser, of all right, title, and interest of such delinquent in and to such property, whether the property be real or personal; and where the subject of sale shall be stocks, the certificate of said sale shall be lawful authority and notice to the proper corporation, company, or association, to record the same on the books or records, in the same manner as if transferred or assigned by the person or party holding the same, to issue new certificates of stock therefor in lieu of any original or prior certificates, which shall be void whether cancelled or not; and said certificates of sale of the collector or deputy collector, where the subject of sale shall be securities or other evidences of debt, shall be good and valid receipts to the person or party holding the same, as against any person or persons, or other party holding, or claiming to hold, possession of such securities or other evidences of debt.

**Sec. 93.** *And be it further enacted,* That it shall be the duty of all persons of lawful age, and all guardians and trustees, whether such trustees are so by virtue of their office as executors, administrators, or other fiduciary capacity, to make return in the list or schedule, as provided in this act, to the proper officer of internal revenue, of the amount of his or her income, or the income of such minors or persons as may be held in trust as aforesaid, according to the requirements hereinbefore stated, and in case of neglect or refusal to make such re-

turn, the assessor or assistant assessor shall assess the amount of his or her income, and proceed thereafter to collect the duty thereon in the same manner as is provided for in other cases of neglect and refusal to furnish lists or schedules in the general provisions of this act, where not otherwise incompatible, and the assistant assessor may increase the amount of the list or return, or of any party making such return, if he shall be satisfied that the same is understated: *Provided*, That any party, in his or her own behalf, or as guardian or trustee, as aforesaid, shall be permitted to declare, under oath or affirmation, the form and manner of which shall be prescribed by the commissioner of internal revenue, that he or she was not possessed of an income of six hundred dollars, liable to be assessed according to the provisions of this act, or that he or she has been assessed elsewhere and the same year for an income duty, under authority of the United States, and shall thereupon be exempt from an income duty; or, if the list or return of any party shall have been increased by the assistant assessor, in manner as aforesaid, he or she may be permitted to declare, as aforesaid, the amount of his or her annual income, or the amount held in trust, as aforesaid, liable to be assessed, as aforesaid, and the same so declared shall be received as the sum upon which duties are to be assessed and collected. *That section ninety-three be amended so that in case of neglect or refusal to make the returns referred to in said section, the proceedings thereafter for the assessment and collection of the duty shall be in the same manner as provided for in other cases of neglect. (Act of March 3, '68, § 1.)*

#### STAMP DUTIES.

**Sec. 94.** *And be it further enacted*, That on and after the first day of October, one thousand eight hundred and sixty-two, there shall be levied, collected, and paid, for and in respect of the several instruments, matters, and things mentioned and described in the schedule (marked B) hereunto annexed, or for or in respect of the vellum, parchment, or paper, upon which such instruments, matters, or things, or any of them, shall be written or printed, by any person or persons, or party who shall make, sign, or issue the same, or for whose use or benefit the same shall be made, signed, or issued, the several duties or sums of money set down in figures against the same, respectively, or otherwise specified or set forth in the said schedule.

**Sec. 95.** *And be it further enacted*, That if any person or persons shall make, sign, or issue, or cause to be made, signed, or issued, any instrument, document, or paper of any kind or description whatsoever, without the same being duly stamped for denoting the duty hereby imposed thereon, or without having thereupon an adhesive stamp to denote said duty, such person or persons shall incur a penalty of \$50, and such instrument, document, or paper, as aforesaid, shall be deemed invalid and of no effect.

**Sec. 96.** *And be it further enacted*, That no stamp appropriated to denote the duty charged on any particular instrument, and bearing the name of such instrument on the face thereof, shall be used for denoting any other duty of the same amount, or, if so used the same shall be of no avail.\*

\* Repealed by act of Dec. 25, '82, § 3. See page 269, post.

**Sec. 97.** *And be it further enacted,* That no vellum, parchment, or paper, bearing a stamp appropriated by name to any particular instrument, shall be used for any other purpose, or if so used, the same shall be of no avail.

**Sec. 98.** *And be it further enacted,* That if any person shall forge or counterfeit, or cause or procure to be forged or counterfeited, any stamp or die, or any part of any stamp or die, which shall have been provided, made, or used in pursuance of this act, or shall forge, counterfeit, or resemble, or cause or procure to be forged, counterfeited, or resembled, the impression, or any part of the impression, of any such stamp or die, as aforesaid, upon any vellum, parchment, or paper, or shall stamp or mark, or cause or procure to be stamped or marked, any vellum, parchment, or paper, with any such forged or counterfeited stamp or die, or part of any stamp or die, as aforesaid, with intent to defraud the United States of any of the duties hereby imposed, or any part thereof, or if any person shall utter, or sell, or expose to sale, any vellum, parchment, or paper, article or thing, having thereupon the impression of any such counterfeited stamp or die, or any part of any stamp or die, or any such forged, counterfeited, or resembled impression, or part of impression, as aforesaid, knowing the same respectively to be forged, counterfeited, or resembled; or if any person shall knowingly use any stamp or die which shall have been so provided, made, or used, as aforesaid, with intent to defraud the United States; or if any person shall fraudulently cut, tear, or get off, or cause, or procure to be cut, torn, or got off, the impression of any stamp or die which shall have been provided, made, or used in pursuance of this act, from any vellum, parchment, or paper, or any instrument or writing charged or chargeable with any of the duties hereby imposed, then, and in every such case, every person so offending, and every person knowingly and wilfully aiding, abetting, or assisting in committing any such offence, as aforesaid, shall be deemed guilty of felony, and shall, on conviction thereof, forfeit the said counterfeit stamps and the articles upon which they are placed, and be punished by fine not exceeding one thousand dollars, and by imprisonment and confinement to hard labor not exceeding five years.

**Sec. 99.** *And be it further enacted,* That in any and all cases where an adhesive stamp shall be used for denoting any duty imposed by this act, except as hereinafter provided, the person using or affixing the same shall write thereupon the initials of his name, and the date upon which the same shall be attached or used, so that the same may not again be used. And if any person shall fraudulently make use of an adhesive stamp to denote any duty imposed by this act without so effectually cancelling and obliterating such stamp, except as before mentioned, he, she, or they shall forfeit the sum of fifty dollars: *Provided, nevertheless,* That any proprietor or proprietors of proprietary articles, or articles subject to stamp duty under Schedule C of this act, shall have the privilege of furnishing, without expense to the United States, in suitable form, to be approved by the commissioner of internal revenue, his or their own dies or designs for stamps to be used thereon, to be retained in the possession of the commissioner of internal revenue, for his or their separate use, which shall

not be duplicated to any other person. That in all cases where such stamp is used, instead of his or their writing his or their initials and the date thereon, the said stamp shall be so affixed on the box, bottle, or package, that in opening the same, or using the contents thereof, the said stamp shall be effectually destroyed; and in default thereof shall be liable to the same penalty imposed for neglect to affix said stamp as hereinbefore prescribed in this act. Any person who shall fraudulently obtain or use any of the aforesaid stamps or designs therefor, and any person forging, or counterfeiting, or causing, or procuring the forging or counterfeiting any representation, likeness, similitude or colorable imitation of the said last-mentioned stamp, or any engraver, or printer, who shall sell or give away said stamps, or selling the same, or, being a merchant, broker, peddler, or person dealing, in whole or in part, in similar goods, wares, merchandise, manufactures, preparations, or articles, or those designed for similar objects or purposes, shall have knowingly or fraudulently in his, her, or their possession any such forged, counterfeited likeness, similitude, or colorable imitation of the said last-mentioned stamp, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be subject to all the penalties, fines, and forfeitures prescribed in section ninety-eight of this act.

[*SEC. 7 (of act of March 3, '63).* And be it further enacted, That the commissioner of internal revenue be, and he is hereby, authorized to prescribe such method for the cancellation of stamps as a substitute for or in addition to the method now prescribed by law as he may deem expedient and effectual. And he is further authorized in his discretion to make the application of such method imperative upon the manufacturers of proprietary articles, and upon stamps of a nominal value exceeding twenty-five cents each.]

**Sec. 100.** *And be it further enacted,* That if any person or persons shall make, sign or issue, or cause to be made, signed, or issued, or shall accept or pay, or cause to be accepted or paid, with design to evade the payment of any stamp duty, any bill of exchange, draft or order, or promissory note for the payment of money, liable to any of the duties imposed by this act, without the same being duly stamped, or having thereupon an adhesive stamp for denoting the duty hereby charged thereon, he, she, or they shall, for every such bill, draft, order, or note, forfeit the sum of two hundred dollars.

**Sec. 101.** *And be it further enacted,* That the acceptor or acceptors of any bill of exchange or order for the payment of any sum of money drawn, or purporting to be drawn, in any foreign country, but payable in the United States, shall, before paying or accepting the same, place thereupon a stamp, indicating the duty upon the same, as the law requires for inland bills of exchange, or promissory notes; and no bill of exchange shall be paid or negotiated without such stamp; and if any person shall pay or negotiate, or offer in payment, or receive or take in payment, any such draft or order, the person or persons so offending shall forfeit the sum of one hundred dollars.

[Any power of attorney, conveyance, or document of any kind made, or purporting to be made, in any foreign country to be used in the United States, shall pay the same duty as is required by law on

similar instruments or documents when made or issued in the United States; and the party to whom the same is issued, or by whom it is to be used, shall, before using the same, affix thereon the stamp or stamps indicating the duty required.] (*Act of March 3, '63, § 6.*)

**Sec. 102.** *And be it further enacted,* That the commissioner of internal revenue be, and is hereby, authorized to sell to and supply collectors, deputy-collectors, postmasters, stationers, or any other persons, at his discretion, with adhesive stamps, or stamped paper, vellum, or parchment, as herein provided for, upon the payment at the time of delivery of the amount of duties said stamps, stamped paper, vellum, or parchment, so sold or supplied, represent, and may [thereupon] allow upon [and deduct from]\* the aggregate amount of such stamps, as aforesaid, the sum of not exceeding five per centum as commission to the collectors, postmasters, stationers, or other purchasers; but the cost of any paper, vellum, or parchment shall be [added to the amount, after deducting the allowance of per centum, as aforesaid] \* *paid by the purchaser of such stamped paper, vellum or parchment:* *Provided,* That no commission shall be allowed on any sum or sums so sold or supplied of less amount than fifty dollars: *And provided, further,* That any proprietor or proprietors of articles named in Schedule C, who shall furnish his or their own die or design for stamps, to be used especially for his or their own proprietary articles, shall be allowed the following *commission*, namely: on amounts purchased at one time of not less than fifty nor more than five hundred dollars, five per centum; on amounts over five hundred dollars, ten per centum. The commissioner of internal revenue may from time to time make regulations for the allowance of such of the stamps issued under the provisions of this act as may have been spoiled or rendered useless or unfit for the purpose intended, or for which the owner may have no use, or which through mistake may have been improperly or unnecessarily used, or where the rates or duties represented thereby have been paid in error, or remitted; and such allowance shall be made either by giving other stamps in lieu of the stamps so allowed for, or by repaying the amount or value, after deducting therefrom, in case of repayment, the sum of five per centum to the owner thereof.

**Sec. 103.** *And be it further enacted,* That it shall be lawful for any person to present to the commissioner of internal revenue any instrument, and require his opinion whether or not the same is chargeable with any duty; and if the said commissioner shall be of opinion that such instrument is not chargeable with any stamp duty, it shall be lawful for him, and he is hereby required, to impress thereon a particular stamp, to be provided for that purpose, with such word or words or device thereon as he shall judge proper, which shall signify and denote that such instrument is not chargeable with any stamp duty; and every such instrument upon which the said stamp shall be impressed shall be deemed to be not so chargeable, and shall be received in evidence in all courts of law or equity, notwithstanding any objections made to the same, as being chargeable with stamp duty, and not stamped to denote the same.

\* Strike out words in brackets and insert those in *italic*. (*Act of March 3, '63, § 1.*)



**Sec. 104.** *And be it further enacted,* That on and after the date on which this act shall take effect, no telegraph company or its agent or employee shall receive from any person or transmit to any person any despatch or message without an adhesive stamp, denoting the duty imposed by this act, being affixed to a copy thereof, or having the same stamped thereupon, and in default thereof shall incur a penalty of ten dollars: *Provided,* That only one stamp shall be required, whether sent through one or more companies.

[**Sec. 105.** *And be it further enacted,* That on and after the date on which this act shall take effect, no express company or its agent or employee shall receive for transportation from any person, any bale, bundle, box, article, or package of any description, without either delivering to the consignor thereof a printed receipt having stamped or affixed thereon a stamp denoting the duty imposed by this act, or without affixing thereto an adhesive stamp or stamps denoting such duty, and in default thereof shall incur a penalty of ten dollars: *Provided,* That but one stamped receipt or stamp shall be required for each shipment from one party to another party at the same time, whether such shipment consists of one or more packages: *And provided, also,* That no stamped receipts or stamp shall be required for any bale, bundle, box, article, or package transported for the Government, nor for such bales, bundles, boxes, or packages as are transported by such companies without charge thereon.] \*

[**Sec. 27 (of Act of March 3, '63).** *And be it further enacted,* That any person who shall offer for sale, after the thirtieth of September, eighteen hundred and sixty-three, any of the articles named in Schedule C of the act to which this act is an amendment, whether the articles so offered are imported, or are of foreign or domestic manufacture, shall be deemed the manufacturer thereof, and subject to all the duties, liabilities, and penalties in said act imposed in regard to the sale of such articles without the use of the proper stamp or stamps, as in said act is required.

[**Sec. 28.** *And be it further enacted,* That all medicines, preparations, compositions, perfumery, and cosmetics, intended for exportation, as provided for in section one hundred and nine of the act to which this act is an amendment, in order to be manufactured and sold or removed, without being charged with duty, and without having a stamp affixed thereto, may, under such rules and regulations as the secretary of the treasury may prescribe, be made and manufactured in warehouses known and designated in treasury regulations as bonded warehouses, class two: *Provided,* Such manufacturer shall first give satisfactory bonds to the collector of internal revenue for the faithful observance of the rules and regulations herein provided for, in amount not less than half required by the regulations of the secretary of the treasury from persons allowed bonded warehouses, class two. Such goods, when manufactured in such warehouses, may be removed for exportation, under the direction of the revenue officer having charge thereof, without being charged with duty, and without having a stamp affixed thereto. Any manufacturer of the articles aforesaid, or of any of them, having such bonded warehouse as aforesaid, shall be at liberty, under such rules and regulations as the secretary of the

\* Repealed. (Act of March 3, '65, § 6.)

treasury may prescribe, to convey therein any materials to be used in such manufacture which are allowed by the provisions of the said act to be exported free from tax or duty, as well as the necessary materials, implements, packages, vessels, brands, and labels for the preparation, putting up, and export of the said manufactured articles; and every article so used shall be exempt from stamp and excise duty. Articles and materials so to be used may be transferred from any bonded warehouse in which the same may be, under such regulations as the secretary of the treasury may prescribe, into any bonded warehouse, class two, in which such manufacture may be conducted, and may be used in such manufacture, and, when so used, shall be exempt from stamp and excise duty; and the receipt of the officer of the revenue in charge shall be received as a voucher for the manufacture of such articles. Any materials imported into the United States may, under such rules as the secretary of the treasury may prescribe, and under the direction of the proper officer of the customs, be removed in original packages from on ship board, or from the bonded warehouses in which the same may be, into the bonded warehouse, class two, in which such manufacture may be carried on, for the purpose of being used in such manufacture, without payment of duties thereon, and may there be used in such manufacture. No article so removed, nor any article manufactured in said bonded warehouse, class two, shall be taken therefrom except for exportation, under the direction of the proper officer of the customs having charge thereof, whose certificate, describing the articles by their marks, or otherwise, the quantity, the date of importation, and name of vessel, with such additional particulars as may from time to time be required, shall be received by the collector of customs in cancellation of the bonds, or return of the amount of foreign import duties. All labor performed and services rendered under these regulations shall be under the supervision of an officer of the customs, and at the expense of the manufacturer.]

**Sec. 106.** *And be it further enacted,* That all the provisions of this act relating to dies, stamps, adhesive stamps, and stamp duties shall extend to and include (except where manifestly inapplicable) all the articles or objects enumerated in schedule marked C, subject to stamp duties, and apply to the provisions in relation thereto.

**Sec. 107.** *And be it further enacted,* That on and after the 1st day of August, 1862, no person or persons, firms, companies, or corporations shall make, prepare and sell, or remove for consumption or sale, drugs, medicines, preparations, compositions, articles, or things, including perfumery, cosmetics, and playing cards, upon which a duty is imposed by this act, as enumerated and mentioned in Schedule C, without affixing thereto an adhesive stamp or label denoting the duty before mentioned, and in default thereof shall incur a penalty of ten dollars: *Provided,* That nothing in this act contained shall apply to any uncompounded medicinal drug or chemical, nor to any medicine compounded according to the United States or other national pharmacopœia, nor of which the full and proper formula is published in either of the dispensatories, formularies, or text books in common use among physicians and apothecaries, including homœopathic and eclectic, or in any pharmaceutical journal now used by any incorporated college of pharmacy, and not sold or offered for sale, or advertised under any

other name, form, or guise than that under which they may be severally denominated and laid down in said pharmacopœias, dispensatories, text books, or journals, as aforesaid, nor to medicines sold to or for the use of any person, which may be mixed and compounded specially for said persons, according to the written recipe or prescription of any physician or surgeon.

**Sec. 108.** *And be it further enacted,* That every manufacturer or maker of any of the articles for sale mentioned in Schedule C, after the same shall have been so made, and the particulars hereinbefore required as to stamps have been complied with, who shall take off, remove, or detach, or cause or permit, or suffer to be taken off, or removed or detached, any stamp, or who shall use any stamp, or any wrapper or cover to which any stamp is affixed, to cover any other article or commodity than that originally contained in such wrapper or cover, with such stamp when first used, with the intent to evade the stamp duties, shall for every such article, respectively, in respect of which any such offence shall be committed, be subject to a penalty of fifty dollars, to be recovered, together with the costs thereupon accruing, and every such article or commodity as aforesaid shall also be forfeited.

**Sec. 109.** *And be it further enacted,* That every maker or manufacturer of any of the articles or commodities mentioned in Schedule C, as aforesaid, who shall sell, send out, remove, or deliver any article or commodity, manufactured as aforesaid, before the duty thereon shall have been fully paid, by affixing thereon the proper stamp, as in this act provided, or who shall hide or conceal, or cause to be hidden or concealed, or who shall remove or convey away, or deposit, or cause to be removed or conveyed away from or deposited in any place, any such article or commodity, to evade the duty chargeable thereon, or any part thereof, shall be subject to a penalty of one hundred dollars, together with forfeiture of any such article or commodity: *Provided,* That medicines, preparations, compositions, perfumery, and cosmetics, upon which stamp duties are required by this act, may, when intended for exportation, be manufactured and sold, or removed without having stamps affixed thereto, and without being charged with duty, as aforesaid; and every manufacturer or maker of any article, as aforesaid, intended for exportation, shall give such bonds and be subject to such rules and regulations to protect the revenue against fraud as may be from time to time prescribed by the secretary of the treasury.

**Sec. 110.** *And be it further enacted,* That every manufacturer or maker of any of the articles or commodities, as aforesaid, or his chief workman, agent, or superintendent, shall at the end of each and every month make and sign a declaration in writing that no such article or commodity, as aforesaid, has, during such preceding month, or time when the last declaration was made, been removed, carried, or sent, or caused, or suffered, or known to have been removed, carried, or sent from the premises of such manufacturer or maker, other than such as have been duly taken account of and charged with the stamp duty, on pain of such manufacturer or maker forfeiting, for every refusal or neglect to make such declaration, one hundred dollars; and if any such manufacturer or maker, or his chief workman, agent, or

superintendent, shall make any false or untrue declaration, such manufacturer or maker, or chief workman, agent or superintendent, making the same, shall forfeit five hundred dollars.

[SEC. 2 (of act of March 3, '68). *And be it further enacted*, That on and after the first day of May, eighteen hundred and sixty three, no person or persons, association, firm, or corporation, shall make, sell, or offer for sale, or dispose of any lottery ticket, or fractional part thereof, or any policy of numbers in any lottery, or any token, certificate, or device representing or intended to represent the holder, or any other person or persons, as entitled or to be entitled, in any lottery, lottery scheme or any game of hazard or chance to be drawn, to any prize or share or part of a prize, or any sum or part or share of any sum of money, or other article of value, or any fractional part thereof, without affixing thereto an adhesive stamp or stamps denoting the duty imposed by this act, and in default thereof shall incur a penalty of fifty dollars for each and every such offence; and no prize or part of a prize drawn to or by any ticket, or fractional part thereof, token, certificate, or device as aforesaid, and no sum of money or thing of value made payable or deliverable upon any stake or investment or risk in, or upon any policy of numbers, shall be demanded or recovered by any legal proceedings or otherwise without the ticket or fractional part thereof, or policy of numbers, token, certificate, or device, shall have been duly stamped at the time of the making, sale or delivery or disposal thereof: *Provided*, That, in addition to all other penalties and forfeitures now imposed by law for the evasion of stamp duties, any person who shall purchase, obtain, or receive any lottery ticket, or fractional part thereof, or any token, certificate, or device representing or intended to represent a lottery ticket, or fractional part thereof, or any policy of numbers, without first having thereon the stamp imposed by this act, may recover from the person of whom the same was purchased, obtained, or received, at any time within three years thereafter, before any court of competent jurisdiction, a sum equal to twice the amount paid for such ticket or fractional part thereof, token, certificate, or device or staked or invested in or upon any policy of numbers as aforesaid, with just and legal costs: *Provided, further*, That the stamp duty herein provided shall be classed in the act to which this act is an amendment under Schedule B:

[SEC. 4. *And be it further enacted*, That all contracts for the purchase or sale of gold or silver coin, or bullion, and all contracts for the loan of money or currency, secured by pledge or deposit or other disposition of gold or silver coin of the United States, if to be performed after a period exceeding three days, shall be in writing or printed, and signed by the parties or their agents or attorneys; and shall have one or more adhesive stamps, as provided in the act to which this is an amendment, equal in amount to one-half of one per centum, and interest at the rate of six per centum per annum on the amount so loaned, pledged, or deposited. And if any such loan, pledge, or deposit, made for a period not exceeding three days, shall be renewed or in any way extended, for any time whatever, said loan, pledge, or deposit, shall be subject to the duty imposed on

loans exceeding three days. And no loan of currency or money on the security of gold or silver coin of the United States as aforesaid, or of any certificate or other evidence of deposit payable in gold or silver coin, shall be made exceeding in amount the par value of the coin pledged or deposited as security; and any such loan so made or attempted to be made shall be utterly void: *Provided*, That if gold or silver coin be loaned at its par value, it shall be subject only to the duty imposed on other loans: *Provided, however*, That nothing herein contained shall apply to any transaction by or with the Government of the United States.

[SEC. 5. *And be it further enacted*, That all contracts, loans, or sales of gold and silver coin and bullion, not made in accordance with this act, shall be wholly and absolutely void; and, in addition to the penalties provided in the act to which this is an amendment, any party to said contract may, at any time within one year from the date of the contract, bring suit before any court of competent jurisdiction to recover back, for his own use and benefit, the money paid on any contract not made in accordance with this act.

[SEC. 6.\* No conveyance, deed, mortgage, or writing, whereby any lands, tenements, realty, or other property shall be sold, granted, assigned, or otherwise conveyed, or shall be made as security for the payment of any sum of money, shall be required to pay a stamp duty of more than the sum of \$1,000, anything to the contrary notwithstanding.

[No stamp duty shall be required on powers of attorney or any other paper relating to applications for bounties, arrearages of pay, or pensions, or to the receipt thereof from time to time; or indemnity awarded for depredations and injuries by certain bands of Sioux Indians, nor on any warrant of attorney accompanying a bond or note, when such bond or note shall have affixed thereto the stamp or stamps denoting the duty required; and whenever any bond or note shall be secured by a mortgage, but one stamp duty shall be required to be placed on such papers: *Provided*, That the stamp duty placed thereon is the highest rate required for such instruments, or either of them; nor on certificates of the measurement or weight of animals, wood, coal, or other articles, nor on deposit notes to mutual insurance companies for insurance upon which policies subject to stamp duties have been or are to be issued; nor on any certificate of the record of a deed or other instrument in writing, or the acknowledgment or proof thereof by attesting witnesses.

[SEC. 16. *And be it further enacted*, That in any collection district where, in the judgment of the commissioner of internal revenue, the facilities for the procurement and distribution of stamped vellum, parchment or paper, and adhesive stamps, are or shall be insufficient, the commissioner, as aforesaid, is authorized to furnish, supply, and deliver to the collector of any such district a suitable quantity or amount of stamped vellum, parchment, or paper, and adhesive stamps, without prepayment therefor, and shall allow the highest rate of commissions to the collector allowed by law to any other parties purchasing the same, and may, in advance, require of any such collector a bond, with sufficient sureties, to an amount equal to the value of any

\* Other provisions of § 6 are incorporated in Schedule B, p. 287.

stamped vellum, parchment, or paper, and adhesive stamps which may be placed in his hands and remain unaccounted for, conditioned for the faithful return, whenever so required, of all quantities or amounts undisposed of, and for the payment, monthly, of all quantities or amounts, sold or not, remaining on hand. And it shall be the duty of such collector to supply his deputies with, or sell to other parties within his district who may make applications therefor, stamped vellum, parchment, or paper, and adhesive stamps, upon the same terms allowed by law, or under the regulations of the commissioner of internal revenue, who is hereby authorized to make such other regulations, not inconsistent herewith, for the security of the United States and the better accommodation of the public in relation to the matters hereinbefore mentioned, as he may judge necessary and expedient: *Provided*, That no instrument, document, or paper, made, signed, or issued prior to the first day of June, Anno Domini eighteen hundred and sixty-three, without being duly stamped, or having thereon an adhesive stamp to denote the duty imposed thereon, shall, for that cause, be deemed invalid and of no effect: *And provided*, That no instrument, document, writing, or paper, required by law to be stamped, signed, or issued, without being duly stamped prior to the day aforesaid, or any copy thereof, shall be admitted or used as evidence in any court until a legal stamp or stamps, denoting the amount of duty charged thereon, shall have been affixed thereto or used thereon, and the initials of the persons using or affixing the same, together with the date when the same is so used or affixed, shall have been placed thereon by such person. And the person desiring to use any such instrument, document, writing or paper as evidence, or his agent or attorney, is authorized in the presence of the court to stamp the same as heretofore provided by law.]

SCHEDULE B (AS AMENDED).

STAMP DUTIES.

	<i>Duty.</i>
	Dols. Cts.
AGREEMENT ON CONTRACT, other than those specified in this schedule; any appraisement of value or damage, or for any other purpose; for every sheet or piece of paper upon which either of the same shall be written, cents.....	5
[On each and every ASSIGNMENT or transfer of a mortgage, lease, or policy of insurance, a stamp duty shall be paid equal to that imposed on the original instrument.]*	
BANK check, draft, or order for the payment of any sum of money exceeding twenty dollars, drawn upon any bank, trust company, or any person or persons, companies, or corporations, at sight or on demand, two cents.....	1
[ANY inland bill of exchange, draft, or order for the payment of any sum of money exceeding \$20, otherwise than at sight or on demand, and any promissory note shall have a stamp or stamps affixed thereon denoting a duty, upon every sum of \$200 or any fractional part thereof, if payable on demand, or at any time not exceeding thirty-three days, including the grace from the date or sight, one cent.....	
[If payable at any time not less than thirty-three days as aforesaid, and not exceeding sixty-three days, including the grace, from date or sight, two cents.....	
[If payable at any time not less than sixty-three days as aforesaid, and not ex-	

\* From § 6 of act of March 8, '68.

	Duty. Dols Cts
ceeding ninety-three days, including the grace from date or sight, three cents.....	3
[If payable at any time not less than ninety-three days as aforesaid, and not exceeding four months from date, or sight and grace, four cents.....	4
[If payable at any time not less than four months as aforesaid, and not exceeding six months from date, or sight or grace, six cents.....	6
[If payable at any time exceeding six months from date, or sight and grace, ten cents.....	10
[Any memorandum, check, receipt, or other written or printed evidence of an amount of money to be paid on demand, or at a time designated, shall be considered as a promissory note within the meaning of that section, and shall be stamped accordingly.] *	
Bill of exchange (foreign) or letter of credit, drawn in but payable out of the United States, if drawn singly, or otherwise than in a set of three or more, according to the custom of merchants and bankers, shall pay the same rates of duty as inland bills of exchange or promissory notes.	
If drawn in sets of three or more: For every bill of each set, where the sum made payable shall not exceed one hundred and fifty dollars, or the equivalent thereof, in any foreign currency in which such bills may be expressed, according to the standard of value fixed by the United States, three cents.	3
Above one hundred and fifty dollars, and not above two hundred and fifty dollars, five cents .....	5
Above two hundred and fifty dollars and not above five hundred dollars, ten cents .....	10
Above five hundred dollars and not above a thousand dollars, fifteen cents ....	15
Above one thousand dollars and not above one thousand five hundred dollars, twenty cents .....	20
Above one thousand five hundred dollars and not above two thousand two hundred and fifty dollars, thirty cents .....	30
Above two thousand two hundred and fifty dollars and not above three thousand five hundred dollars, fifty cents.....	50
Above three thousand five hundred dollars and not above five thousand dollars, seventy cents .....	70
Above five thousand dollars and not above seven thousand five hundred dollars, one dollar .....	1 00
And for every two thousand five hundred dollars, or part thereof, in excess of seven thousand five hundred dollars, thirty cents .....	30
BILL OF LADING or receipt (other than charter-party), for any goods, merchandise, or effects, to be exported from a port or place in the United States to any foreign port or place, ten cents .....	10
[On any bill of sale by which any ship or vessel, or any part thereof, shall be conveyed to or veeted in any other person or persons when the consideration shall not exceed five hundred dollars, there shall be affixed a stamp or stamps denoting a duty of twenty-five cents.	
[If the consideration exceeds five hundred and does not exceed one thousand dollars, the duty shall be fifty cents.	
[If the consideration exceeds one thousand dollars, for each and every additional amount of one thousand dollars, or any fractional part thereof, in excess of one thousand dollars, the duty in addition shall be fifty cents.] *	
EXPRESS.—For every receipt or stamp issued, or issued by any express company, or carrier, or person whose occupation it is to act as such, for all boxes, bales, packages, articles, or bundles, for the transportation of which such company, carrier, or person, shall receive a compensation of not over twenty-five cents, one cent.....	1
[When such compensation exceeds the sum of twenty-five cents, and not over one dollar, two cents .....	2
[When one or more packages are sent to the same address at the same time, and the compensation therefor exceeds one dollar, five cents] † .....	5
BOND.—For indemnifying any person who shall have become bound or engaged as surety for the payment of any sum of money, or for the due execution or performance of the duties of any office, and to account for money received by virtue thereof, fifty cents .....	50

\* From § 6 of act of March 3, '63.

† The duty or stamps required for transportation by express companies and others is hereby repealed, and such transportation shall be exempt from stamp duty (§ 6).

	<i>Duty.</i> Dols. Cts.
<b>BOND</b> of any description other than such as may be required in legal proceedings, and such as are not otherwise charged in this schedule, twenty-five cents .....	25
<b>CERTIFICATE</b> of stock in any incorporated company, twenty-five cents. ....	25
<b>CERTIFICATE</b> of profits, or any certificate or memorandum showing an interest in the property or accumulations of any incorporated company, if for a sum not less than ten dollars and not exceeding fifty dollars, ten cents. ....	10
For a sum exceeding fifty dollars, twenty-five cents .....	25
<b>CERTIFICATE</b> .—Any certificate of damage, or otherwise, and all other certificates or documents issued by any port warden, marine surveyor, or other person acting as such, twenty-five cents .....	25
<b>CERTIFICATE</b> of deposit of any sum of money in any bank or trust company, or with any banker or person acting as such—	
If for a sum not exceeding one hundred dollars, two cents .....	2
For a sum exceeding one hundred dollars, five cents .....	5
<b>CERTIFICATE</b> of any other description than those specified, <i>pro</i> cents. ....	5
<b>CHARTER-PARTY</b> .—Contract or agreement for the charter of any ship or vessel, or steamer, or any letter, memorandum, or other writing between the captain, master, or owner, or person acting as agent of any ship or vessel, or steamer, and any other person or persons for or relating to the charter of such ship or vessel, or steamer, if the registered tonnage of such ship or vessel, or steamer, does not exceed three hundred tons, three dollars* .....	8 00
Exceeding three hundred tons, and not exceeding six hundred tons, five dollars* .....	5 00
Exceeding six hundred tons, ten dollars* .....	10 00
[That the stamp duty on a contract or agreement for the charter of any ship, or vessel, or steamer, as now provided for in Schedule B, or any letter, memorandum, or other writing between the captain, master, or owner, or person acting as agent of any ship, or vessel, or steamer, and any other person or persons for or relating to the charter of such ship, or vessel, or steamer, if the registered tonnage of such ship, or vessel, or steamer, does not exceed one hundred and fifty tons, shall be one dollar.	
[Exceeding one hundred and fifty tons, and not exceeding three hundred tons, three dollars.	
[Exceeding three hundred tons and not exceeding six hundred tons, five dollars.	
[Exceeding six hundred tons, ten dollars.]	
<b>CONTRACT</b> .—Broker's note, or memorandum of sale of any goods or merchandise, stocks, bonds, exchange, notes of hand, real estate, or property of any kind or description issued by brokers or persons acting as such, ten cents .....	10
<b>CONVEYANCE</b> .—Deed, instrument, or writing, whereby any lands, tenements, or other realty sold shall be granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person or persons by his, her, or their direction, when the consideration or value exceeds one hundred dollars and does not exceed five hundred dollars, fifty cents .....	50
When the consideration exceeds five hundred dollars and does not exceed one thousand dollars, one dollar .....	1 00
Exceeding one thousand dollars and not exceeding two thousand five hundred dollars, two dollars .....	2 00
Exceeding two thousand five hundred dollars and not exceeding five thousand dollars, five dollars .....	5 00
Exceeding five thousand dollars and not exceeding ten thousand dollars, ten dollars .....	10 00
Exceeding ten thousand dollars and not exceeding twenty thousand dollars, twenty dollars .....	20 00
And for every additional ten thousand dollars, or fractional part thereof, in excess of twenty thousand dollars, twenty dollars .....	20 00
<b>DESPATCH, TELEGRAPHIC</b> .—Any despatch or message, the charge for which for the first ten words does not exceed twenty cents, one cent. ....	1
When the charge for the first ten words exceeds twenty cents, three cents. ....	3
<b>ENTRY</b> of any goods, wares, or merchandise at any custom-house, either for consumption or warehousing, not exceeding one hundred dollars in value, twenty-five cents .....	25

\* Strike out this paragraph and insert the following paragraph, in brackets, from § 6 of act of March 8, '68.



	Duty. Dols. Cts.
Exceeding one hundred dollars and not exceeding five hundred dollars in value, fifty cents.....	50
Exceeding five hundred dollars in value, one dollar.....	1 00
ENTRY for the withdrawal of any goods or merchandise from bonded warehouse, fifty cents.....	50
INSURANCE (Life).—Policy of insurance, or other instrument by whatever name the same shall be called, whereby any insurance shall be made upon any life or lives—	
When the amount insured shall not exceed one thousand dollars, twenty-five cents.....	25
Exceeding one thousand and not exceeding five thousand dollars, fifty cents..	50
Exceeding five thousand dollars, one dollar.....	1 00
INSURANCE (MARINE, INLAND, AND FIRE).—Each policy of insurance or other instrument, by whatever name the same shall be called, by which insurance shall be made or renewed upon property of any description, whether against perils by the sea or by fire, or other peril of any kind, made by any insurance company, or its agents, or by any other company or person, twenty-five cents.....	25
[On any policy of insurance or other instrument, by whatever name the same shall be called, by which insurance shall be made or renewed upon property of any description, whether against perils by sea or by fire, or other peril of any kind, made by any insurance company or its agents, or by any other company or person, in which the premium or assessment shall not exceed ten dollars, ten cents.] *	
LEASE, agreement, memorandum, or contract for the hire, use, or rent of any land, tenement, or portion thereof.....	50
If for a period of time not exceeding three years, fifty cents.....	1 00
If for a period exceeding three years, one dollar.....	
MANIFEST for custom-house entry or clearance of the cargo of any ship, vessel, or steamer for a foreign port—	
If the registered tonnage of such ship, vessel, or steamer does not exceed three hundred tons, one dollar.....	1 00
Exceeding three hundred tons, and not exceeding six hundred tons, three dollars.....	3 00
Exceeding six hundred tons, five dollars.....	5 00
[ANY MORTGAGE or personal bond for the payment of money, or as security for the payment of any definite or certain sum of money, in lieu of the duties imposed as prescribed in Schedule B following the 110th section, shall have a stamp or stamps affixed thereon denoting a duty upon every sum of two hundred dollars, or any fractional part thereof, of ten cents.] *	
On PASSAGE TICKETS, by any vessel from a port of the United States to a foreign port, costing thirty dollars or less, fifty cents *.....	50
POWER OF ATTORNEY for the sale or transfer of any stock, bonds, or scrip, or for the collection of any dividends or interest thereon, twenty-five cents.....	25
On any power of attorney for the sale or transfer of any scrip or certificate of profits, or memorandum, showing an interest in the profits or accumulations of any corporation or association, if for a sum not exceeding fifty dollars, ten cents.] *	
POWER OF ATTORNEY OR PROXY for voting at any election for officers of any incorporated company or society, except religious, charitable, or literary societies, or public cemeteries, ten cents.....	10
POWER OF ATTORNEY to receive or collect rent, twenty-five cents.....	25
POWER OF ATTORNEY to sell and convey real estate, or to rent or lease the same, or to perform any and all other acts not hereinbefore specified, one dollar.....	1 00
PROBATE OF WILL, or letters of administration: Where the estate and effects for and in respect of which such probate or letters of administration applied for shall be sworn or declared not to exceed the value of two thousand five hundred dollars, fifty cents.....	50
To exceed two thousand five hundred dollars, and not exceeding five thousand dollars, one dollar.....	1 00
To exceed five thousand dollars, and not exceeding twenty thousand dollars, two dollars.....	2 00
To exceed twenty thousand dollars, and not exceeding fifty thousand dollars, five dollars.....	5 00

\* From § 6 of act of March 3, '68.

	<i>Duty.</i> Dols. Cts.
To exceed fifty thousand dollars, and not exceeding one hundred thousand dollars, ten dollars.....	10 00
Exceeding one hundred thousand dollars, and not exceeding one hundred and fifty thousand dollars, twenty dollars.....	20 00
And for every additional fifty thousand dollars, or fractional part thereof, ten dollars.....	10 00
PROTEST.—Upon the protest of every note, bill of exchange, acceptance, check or draft, or any marine protest, whether protested by a notary public or by any other officer who may be authorized by the law of any State or States to make such protest, twenty-five cents.....	25
WAREHOUSE RECEIPT for any goods, merchandise, or property of any kind held on storage in any public or private warehouse or yard, twenty-five cents.....	25
LEGAL DOCUMENTS:	
Writ, or other original process by which any suit is commenced in any court of record, either law or equity, fifty cents.....	50
<i>Provided</i> , That no writ, summons, or other process issued by a justice of the peace, or issued in any criminal or other suits commenced by the United States or any State, shall be subject to the payment of stamp duties: <i>And provided, further</i> , That the stamp duties imposed by the foregoing Schedule B on manifests, bills of lading, and passage tickets, shall not apply to steamboats or other vessels plying between ports of the United States and ports in British North America.	
LOTTERY TICKETS, fractional parts of lottery tickets, policies of numbers in lotteries, tokens, certificates or devices in any form, representing the holder or any person or persons as entitled, or to be entitled, in any lottery, scheme, or game of hazard or chance, hereafter to be drawn, to any prize or portion of a prize, or sum of money, or share thereof, or other article of value, or any portion or share thereof, when such ticket, fractional part of a ticket, policy of numbers, token, certificate or device, shall not exceed \$1 in the amount risked, or in the retail price thereof, 50 cents; when such ticket, fractional part of a ticket, policy, token, certificate, or device shall exceed \$1 in the amount risked, or in the retail price thereof, then for each and every dollar, or fractional part thereof, over and above \$1, as before mentioned, an additional 50 cents: <i>Provided, however</i> , That no stamp duty herein provided for shall be construed to authorize any lottery, or the sale of any lottery tickets, tokens, or certificates, representing shares or fractional parts of shares therein, within any State or Territory of the United States in which lotteries or the sale of lottery tickets is or shall be specially prohibited by the laws thereof; or in violation of the laws of any State or Territory; and nothing in this act shall be held or construed so as to prevent the several States, within the limits thereof, from placing a duty, tax, or license for State purposes, on any sale of lottery tickets on which a duty is required to be paid by this act.] ( <i>Act of March 3, '68, § 2.</i> )	

## SCHEDULE C.

MEDICINES OR PREPARATIONS.—For and upon every packet, box, bottle, pot, phial, or other enclosure, containing any pills, powders, tinctures, troches or lozenges, syrups, cordials, bitters, anodynes, tonics, plasters, liniments, salves, ointments, pastes, drops, waters, essences, spirits, oils, or other preparations or compositions whatsoever, made and sold, or removed for consumption and sale, by any person or persons whatever, wherein the person making or preparing the same has, or claims to have, any private formula or occult secret or art for the making or preparing the same, or has, or claims to have, any exclusive right or title to the making or preparing the same, or which are prepared, uttered, vended, or exposed for sale under any letters patent, or held out or recommended to the public by the makers, vendors, or proprietors thereof as proprietary medicines, or as remedies or specifics for any disease, diseases, or affections whatever, affecting the human or animal body, as follows: where such packet, box, bottle, pot, phial, or other enclosure, with its contents, shall not exceed, at the retail price or value, the sum of twenty-five cents, one cent.....

Where such packet, box, bottle, pot, phial, or other enclosure, with its contents,

	Duty. Dols. Cts.
shall exceed the retail price or value of twenty-five cents, and not exceed the retail price or value of fifty cents, two cents.....	2
Where such packet, box, bottle, pot, phial, or other enclosure, with its contents, shall exceed the retail price or value of fifty cents, and shall not exceed the retail price or value of seventy-five cents, three cents.....	3
When such packet, box, bottle, pot, phial, or other enclosure, with its contents, shall exceed the retail price or value of seventy-five cents, and shall not exceed the retail price or value of one dollar, four cents.....	4
When such packet, box, bottle, pot, phial, or other enclosure, with its contents, shall exceed the retail price or value of one dollar, for each and every fifty cents or fractional part thereof over and above the one dollar, as before mentioned, an additional two cents.....	5
<b>PERFUMERY AND COSMETICS.</b> —For and upon every packet, box, bottle, pot, phial, or other enclosure, containing any essence, extract, toilet, water, cosmetic, hair oil, pomade, hairdressing, hair restorative, hair dye, tooth-wash, dentifrice, tooth paste, aromatic cachoua, or any similar articles, by whatsoever name the same heretofore have been, now are, or may hereafter be called, known, or distinguished, used or applied, or to be used or applied as perfumes or applications to the hair, mouth, or skin, made, prepared, and sold or removed for consumption and sale in the United States, where such packet, box, bottle, pot, phial, or other enclosure, with its contents, shall not exceed at the retail price or value the sum of twenty-five cents, one cent.....	1
Where such packet, box, bottle, pot, phial, or other enclosure, with its contents, shall exceed the retail price or value of twenty-five cents, and shall not exceed the retail price or value of fifty cents, two cents.....	2
Where such packet, box, bottle, pot, phial, or other enclosure, with its contents, shall exceed the retail price or value of fifty cents, and shall not exceed the retail price or value of seventy-five cents, three cents.....	3
Where such packet, box, bottle, pot, phial, or other enclosure, with its contents, shall exceed the retail price or value of seventy-five cents, and shall not exceed the retail price or value of one dollar, four cents.....	4
Where such packet, box, bottle, pot, phial, or other enclosure, with its contents, shall exceed the retail price or value of one dollar, for each and every fifty cents, or fractional part thereof over and above the one dollar, as before mentioned, an additional two cents.....	5
<b>PLAYING CARDS.</b> —For and upon every pack of whatever number, when the price per pack does not exceed eighteen cents, one cent.....	1
Over eighteen cents and not exceeding twenty-five cents per pack, two cents.....	2
Over twenty-five and not exceeding thirty cents per pack, three cents.....	3
Over thirty and not exceeding thirty-six cents per pack, four cents.....	4
Over thirty-six cents per pack, five cents.....	5

### LEGACIES AND DISTRIBUTIVE SHARES OF PERSONAL PROPERTY.

**Sec. 111.** *And be it further enacted,* That any person or persons having in charge or trust, as administrators, executors, or trustees of any legacies or distributive shares arising from personal property, of any kind whatsoever, where the whole amount of such personal property, as aforesaid, shall exceed the sum of one thousand dollars in actual value, passing from any person who may die after the passage of this act possessed of such property, either by will or by the intestate laws of any State or Territory, or any part of such property or interest therein, transferred by deed, grant, bargain, sale, or gift, made or intended to take effect in possession or enjoyment after the death of the grantor or bargainor, to any person or persons, or to any body or bodies politic or corporate, in trust or otherwise, shall

be, and hereby are, made subject to a duty or tax, to be paid to the United States, as follows, that is to say:

First. Where the person or persons entitled to any beneficial interest in such property shall be the lineal issue or lineal ancestor, brother or sister, to the person who died possessed of such property, as aforesaid, at and after the rate of seventy-five cents for each and every hundred dollars of the clear value of such interest in such property.

Second. Where the person or persons entitled to any beneficial interest in such property shall be a descendant of a brother or sister of the person who died possessed, as aforesaid, at and after the rate of one dollar and fifty cents for each and every hundred dollars of the clear value of such interest.

Third. Where the person or persons entitled to any beneficial interest in such property shall be a brother or sister of the father or mother, or a descendant of a brother or sister of the father or mother of the person who died possessed, as aforesaid, at and after the rate of three dollars for each and every hundred dollars of the clear value of such interest.

Fourth. Where the person or persons entitled to any beneficial interest in such property shall be a brother or sister of the grandfather or grandmother, or a descendant of the brother or sister of the grandfather or grandmother of the person who died possessed, as aforesaid, at and after the rate of four dollars for each and every hundred dollars of the clear value of such interest.

Fifth. Where the person or persons entitled to any beneficial interest in such property shall be in any other degree of collateral consanguinity than is hereinbefore stated, or shall be a stranger in blood to the person who died possessed, as aforesaid, or shall be a body politic or corporate, at and after the rate of five dollars for each and every hundred dollars of the clear value of such interest: *Provided*, That all legacies or property passing by will, or by the laws of any State or Territory, to husband or wife of the person who died possessed, as aforesaid, shall be exempt from tax or duty.

**Sec. 112.** *And be it further enacted*, That the tax or duty aforesaid shall be a lien and charge upon the property of every person who may die, as aforesaid, until the same shall be fully paid to and discharged by the United States; and every executor, administrator, or other person who may take the burden or trust of administration upon such property shall, after taking such burden or trust, and before paying and distributing any portion thereof to the legatees or any parties entitled to beneficial interest therein, pay to the collector or deputy collector of the district of which the deceased person was a resident the amount of the duty or tax, as aforesaid, and shall also make and render to the assistant assessor of the district a schedule, list, or statement of the amount of such property, together with the amount of duty which has accrued or should accrue thereon, verified by his oath or affirmation, to be administered and certified thereon by some magistrate or officer having lawful power to administer such oaths, in such form and manner as may be prescribed by the commissioner of internal revenue, which schedule, list, or statement shall contain the names of each and every person entitled to any ben-

official interest therein, together with the clear value of such interest, which schedule, list, or statement shall be by him delivered to such collector; and upon such payment and delivery of such schedule, list, or statement, said collector or deputy collector shall grant to such person paying such duty or tax a receipt or receipts for the same in duplicate which shall be prepared as is hereinafter provided; such receipt or receipts duly signed and delivered by such collector or deputy collector, shall be sufficient evidence to entitle the person who paid such duty or tax as having taken the burden or trust of administering such property or personal estate to be allowed for such payment by the person or persons entitled to the beneficial interest in respect to which such tax or duty was paid; and such person administering such property or personal estate shall be credited and allowed such payment by every tribunal which, by the laws of any State or Territory, is or may be empowered to decide upon and settle the accounts of executors and administrators; and, in case such person who has taken the burden or trust of administering upon any such property, or personal estate, shall refuse or neglect to pay the aforesaid duty or tax to the collector or deputy collector, as aforesaid, within the time hereinbefore provided, or shall neglect or refuse to deliver to said collector or deputy collector the schedule, list, or statement of such legacies, property, or personal estate, under oath, as aforesaid, or shall deliver to said collector or deputy collector a false schedule or statement of such legacies, property, or personal estate, or give the names and relationship of the persons entitled to beneficial interests therein untruly, or shall not truly and correctly set forth and state therein the clear value of such beneficial interest; or where no administration upon such property or personal estate shall have been granted or allowed under existing laws, the proper officer of the United States shall commence such proceedings in law or equity before any court of the United States as may be proper and necessary to enforce and realize the lien or charge upon such property or personal estate, or any part thereof, for which such tax or duty has not been truly and justly paid. Under such proceedings the rate of duty or tax enforced shall be the highest rate imposed or assessed by this act, and shall be in the name of the United States against such person or persons as may have the actual or constructive custody or possession of such property or personal estate, or any part thereof, and shall subject such property or personal estate, or any portion of the same, to be sold upon the judgment or decree of such court, and from the proceeds of such sale, the amount of such tax or duty, together with all costs and expenses of every description to be allowed by such court, shall be first paid, and the balance, if any, deposited according to the order of such court, to be paid under its direction to such person or persons as shall establish their lawful title to the same. The deed or deeds, or any proper conveyance of such property or personal estate, or any portion thereof, so sold under such judgment or decree, executed by the officer lawfully charged with carrying the same into effect, shall vest in the purchaser thereof all the title of the delinquent to the property or personal estate sold under and by virtue of such judgment or decree, and shall release every other portion of such property or personal estate

from the lien or charge thereon created by this act. And every person or persons, who shall have in his possession, charge, or custody, any record, file, or paper containing or supposed to contain any information concerning such property or personal estate, as aforesaid, passing from any person who may die, as aforesaid, shall exhibit the same at the request of the collector of the revenue, his deputy, or agent, and to any law officer of the United States, in the performance of his duty under this act, his deputy or agent, who may desire to examine the same; and if any such person, having in his possession, charge, or custody, any such records, files, or papers, shall refuse or neglect to exhibit the same on request, as aforesaid, he shall forfeit and pay the sum of five hundred dollars; and in case of any delinquency in making the schedule, list, or statement, or in the payment of the duty or tax accruing, or which should accrue thereon, the assessment and collection shall be made as provided for in the general provisions of this act: *Provided*, In all legal controversies where such deed or title shall be the subject of judicial investigation the recital in in said deed shall be presumed to be true, and that the requirements of the law had been complied with by the officers of the Government.

**Sec. 113.** *And be it further enacted*, That whenever by this act any license, duty, or tax of any description has been imposed on any corporate body, or property of any incorporated company, it shall be lawful for the commissioner of internal revenue to prescribe and determine in what district such tax shall be assessed and collected, and to what officer thereof the official notices required in that behalf shall be given, and of whom payment of such tax shall be demanded.

**Sec. 114.** *And be it further enacted*, That all articles upon which duties are imposed by the provisions of this act, which shall be found in the possession of any person or persons for the purpose of being sold by such person or persons in fraud thereof and with the design to avoid payment of said duties, may be seized by any collector or deputy collector who shall have reason to believe that the same are possessed for the purpose aforesaid, and the same shall be forfeited to the United States. And the proceedings to enforce said forfeiture shall be in the nature of a proceeding in rem, in the circuit or district court of the United States for the district where such seizure is made, or in any other court of competent jurisdiction. And any person who shall have in his possession any such articles for the purpose of selling the same, with the design of avoiding payment of the duties imposed thereon by this act, shall be liable to a penalty of one hundred dollars, to be recovered as hereinbefore provided.

#### APPROPRIATION.

**Sec. 115.** *And be it further enacted*, That the pay of the assessors, assistant assessors, collectors, and deputy collectors, shall be paid out of the accruing internal duties or taxes before the same is paid into the treasury, according to such regulations as the commissioner of internal revenue, under the direction of the secretary of the treasury, shall prescribe; and for the purpose of paying the commissioner of internal revenue and clerks, procuring dies, stamps, adhesive stamps,

paper, printing forms and regulations, advertising, and any other expenses of carrying this act into effect, the sum of five hundred thousand dollars be, and hereby is, appropriated, or so much thereof as may be necessary.

#### ALLOWANCE AND DRAWBACK.

**Sec. 116.** *And be it further enacted,* That from and after the date on which this act takes effect there shall be an allowance or drawback on all articles on which any internal duty or tax shall have been paid, except raw or unmanufactured cotton, equal in amount to the duty or tax paid thereon, and no more, when exported, the evidence that any such duty or tax has been paid to be furnished to the satisfaction of the commissioner of internal revenue by such person or persons as shall claim the allowance or drawback, and the amount to be ascertained under such regulations as shall, from time to time, be prescribed by the commissioner of internal revenue, under the direction of the secretary of the treasury, and the same shall be paid by the warrant of the secretary of the treasury on the treasurer of the United States, out of any money arising from internal duties not otherwise appropriated: *Provided,* That no allowance or drawback shall be made or had for any amount claimed or due less than twenty dollars, anything in this act to the contrary notwithstanding: *And provided, further,* That any certificate of drawback for goods exported, issued in pursuance of the provisions of this act, may, under such regulations as may be prescribed by the secretary of the treasury, be received by the collector or his deputy in payment of duties under this act. And the secretary of the treasury may make such regulations with regard to the form of said certificates and the issuing thereof as, in his judgment, may be necessary: *And provided, further,* That in computing the allowance or drawback upon articles manufactured exclusively of cotton when exported, there shall be allowed, in addition to the three per centum duty which shall have been paid on such articles, a drawback of five mills per pound upon such articles, in all cases where the duty imposed by this act upon the cotton used in the manufacture thereof has been previously paid; the amount of said allowance to be ascertained in such manner as may be prescribed by the commissioner of internal revenue, under the direction of the secretary of the treasury.

**Sec. 117.** *And be it further enacted,* That if any person or persons shall fraudulently claim or seek to obtain an allowance or drawback on goods, wares, or merchandise, on which no internal duty shall have been paid, or shall fraudulently claim any greater allowance or drawback than the duty actually paid, as aforesaid, such person or persons shall forfeit triple the amount wrongfully or fraudulently claimed or sought to be obtained, or the sum of five hundred dollars, at the election of the secretary of the treasury, to be recovered as in other cases of forfeiture provided for in the general provisions of this act.

[Sec. 35 (of act of March 3, '63). *And be it further enacted,* That the evidence of exportation to entitle to benefit of drawback under the act to provide internal revenue to which this act is an amendment,

and the rules and regulations pertaining thereto, shall be the same as those which are now or may be required to entitle the exporter to benefit of drawback under the acts relating to drawbacks of duties on imports, with such other rules and regulations as the secretary of the treasury may prescribe; that the bureau in charge of exports for the benefit of drawback under the acts as aforesaid at the port of New York (and at such other ports as the secretary of the treasury may designate) shall have charge of the same under the act to which this act is an amendment; that the head of such bureau shall be invested with the authority and receive the emoluments of a deputy of the collector of customs; and that the said bureau shall, under the direction of the collector of the customs, embrace the supervision of all exports entitled to remission of duties, or to drawback of duties paid, under the acts above-mentioned; the ascertaining and certifying such duties; the taking and cancellation of required bonds; the charge of all export entry papers for benefit of drawback and officers' returns thereon, and of certificates in proof of the landing of such exports abroad: *Provided*, That nothing herein contained shall be construed to change or modify the existing mode of paying the drawbacks and debentures allowed by the laws before referred to.

[**SEC. 36.** *And be it further enacted*, That the assistant treasurer of the United States at San Francisco is required, under such instructions as the commissioner of internal revenue shall prescribe, to audit, allow, and pay the accounts for services of the collectors and assessors of California, Oregon, and Nevada Territory, subject to the revision of the said commissioner.

[**SEC. 37.** *And be it further enacted*, That this act, except where otherwise indicated, shall take effect from and after its passage, and all acts and parts of acts repugnant to the provisions of this act be and the same are hereby repealed: *Provided*, That the existing laws shall extend to and be in force, as modified, for the collection of the duties imposed by this act, for the prosecution and punishment of all offences, and for the recovery, collection, distribution, and remission of all fines, penalties, and forfeitures, as fully and effectually as if every regulation, penalty, forfeiture, provision, clause, matter, and thing to that effect, in the existing laws contained, had been inserted in and re-enacted by this act.

[**SEC. 38.** *And be it further enacted*, That from and after the date when this act takes effect there shall be an allowance or drawback on cordials and other liquors manufactured wholly or in part of domestic spirits, on which a duty shall have been paid equal in amount to the duty paid on such spirits when exported, with such deduction as the secretary of the treasury may think reasonable, not exceeding five per centum of the amount of duty so paid, the amount to be ascertained in the manner and under the regulations prescribed in section one hundred and sixteen of the act to which this is additional, and the same to be subject to all the provisions of said section applicable thereto: *Provided*, That no such allowance shall be made unless the value of the spirits used in such manufacture shall exceed one-half of the whole value of the article manufactured as aforesaid.]

**Sec. 118.** *And be it further enacted*, That the sum of sixty thou-



sand dollars, appropriated to complete the capitol in New Mexico, by the second section of an act of congress approved June twenty-five, eighteen hundred and sixty, and the sum of fifty thousand dollars, appropriated for military roads in New Mexico, by act of congress, approved March two, eighteen hundred and sixty-one, be, and the same are hereby, credited to the Territory of New Mexico in payment of the direct annual tax of sixty-two thousand six hundred and forty-eight dollars levied upon said Territory under the eighth section of an act of congress approved August five, eighteen hundred and sixty-one, to be taken up on account of said direct tax under said [act] as the same may fall due to the United States from said Territory.

Sec. 119. *And be it further enacted*, That so much of an act entitled "An act to provide increased revenue from imports, to pay interest on the public debt, and for other purposes," approved August fifth, eighteen hundred and sixty-one, as imposes a direct tax of twenty millions of dollars on the United States, shall be held to authorize the levy and collection of one tax to that amount. And no other tax shall be levied under and by virtue thereof until the first day of April, eighteen hundred and sixty-five, when the same shall be in full force and effect.

GALUSHA A. GROW,

*Speaker of the House of Representatives.*

SOLOMON FOOT,

*President of the Senate pro tempore.*

Approved July 1, 1862.

ABRAHAM LINCOLN.

N. B.—In section twenty-five of the act of March 3, 1863 (*ante*, p. 1), the words "except in cities," after the word "granted," was accidentally omitted by the enrolling clerk. It may be doubtful whether these words can be deemed a part of the act.

## II.

### CHAP. CLXXXVII.—AN ACT to impose an additional duty on sugars produced in the United States.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That in addition to the duties imposed by the act entitled "An act to provide internal revenue to support the Government, and to pay interest on the public debt," approved July first, eighteen hundred and sixty-two, on all brown, muscovado, or clarified sugars produced directly from the sugar cane, there shall be levied, collected, and paid under the provisions of said act, upon all such sugars produced in the United States, a duty of one cent per pound; and such additional duty, and the duty specified in the act aforesaid, shall be levied, collected, and paid [on] all such sugars, not manufactured for consumption in the family of the producer, in the hands of the producer or manufacturer thereof, or of his agent or factor, on the day of the approval of this act by the president: Provided, That within States or parts of States declared to be in insurrection, the said duties may be collected

in such manner, and by such officers as the president may direct, until the insurrection so declared shall cease or have been suppressed.

Sec. 2. *And be it further enacted*, That the provisions of this act shall not apply to sugar manufactured from sorghum.

Approved July 16, 1862.

*Dec 27 1862* III.

AN ACT to amend an act entitled "*An act to provide internal revenue to support the Government and to pay interest on the public debt*," approved July first, eighteen hundred and sixty-two.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the assessors, assistant assessors, collectors and deputy collectors, appointed, or who may be appointed, under the provisions of an act entitled "*An act to provide internal revenue to support the Government and to pay interest on the public debt*," approved July first, eighteen hundred and sixty-two, and all subsequent acts in relation thereto which have been or may be enacted, are hereby authorized and empowered to administer oaths or affirmations in all cases where the same are or may be required by the acts as aforesaid: *Provided*, That no fees shall be charged or allowed therefor.

Sec. 2. *And be it further enacted*, That the commissioner of internal revenue shall be authorized and empowered, and hereby is authorized and empowered, to furnish and supply the assistant treasurers or collectors of the United States at San Francisco, State of California, and Portland, State of Oregon, with adhesive stamps, or stamped paper, vellum, or parchment, according to the provisions of the internal revenue laws referred to in the preceding section, under such regulations and conditions as he may from time to time prescribe, and without requiring payment in advance therefor, anything in existing laws to the contrary notwithstanding: *Provided*, That no greater commission shall be allowed than is now provided for by law.

Sec. 3. *And be it further enacted*, That no instrument, document, writing, or paper of any description, required by law to be stamped, shall be deemed or held invalid and of no effect for the want of the particular kind or description of stamp designated for and denoting the duty charged on any such instrument, document, writing, or paper, provided a legal stamp, or stamps, denoting a duty of equal amount, shall have been duly affixed and used thereon: *Provided*, That the provisions of this section shall not apply to any stamp appropriated to denote the duty charged on proprietary articles.

Sec. 4. *And be it further enacted*, That all official instruments, documents, and papers, issued or used by the officers of the United States Government, shall be, and hereby are, exempt from duty.

Sec. 5. *And be it further enacted*, That the ninety-fifth section of an act entitled "*An act to provide internal revenue to support the Gov-*

ernment and to pay interest on the public debt," approved July first, eighteen hundred and sixty-two, be so amended that no instrument, document, or paper made, signed, or issued prior to the first day of March, Anno Domini eighteen hundred and sixty-three, without being duly stamped, or having thereon an adhesive stamp to denote the duty imposed thereon, shall, for that cause, be deemed invalid and of no effect: *Provided*, That no instrument, document, writing, or paper, required by law to be stamped, signed, or issued, without being duly stamped prior to the day aforesaid, or any copy thereof, shall be admitted or used as evidence in any court until a legal stamp or stamps, denoting the amount of duty charged thereon, shall have been affixed thereto, or used thereon, and the initials of the person using or affixing the same, together with the date when the same is so used or affixed, shall have been placed thereon by such person. And the person desiring to use any such instrument, document, writing, or paper, as evidence, or his agent or attorney, is authorized in the presence of the court to stamp the same as hereinbefore provided. And section twenty-four of an act entitled "An act increasing, temporarily, the duties on imports, and for other purposes," approved July fourteen, Anno Domini eighteen hundred and sixty-two, is hereby repealed.

Approved December 25, 1862.

*This act repealed for act of  
June 30/64*

#### IV.

#### ORDER OF SECRETARY OF TREASURY POSTPONING THE OPERATION OF THE LAW.

TREASURY DEPARTMENT, July 23, 1862.

By authority of a joint resolution of the congress of the United States, approved on the seventeenth day of July instant, notice is hereby given that the first day of September next is fixed and determined upon as the day on which the "act to provide internal revenue to support the Government and to pay interest on the public debt" shall be put into practical operation; and any act or thing which in said act is required to be done on or before the first day of July or August, in the year eighteen hundred and sixty-two, shall be done on or before the first day of September, eighteen hundred and sixty-two; and all parts of said act having reference to said dates of the first days of July and August, eighteen hundred and sixty-two, shall be taken and construed as having reference to the first day of September, eighteen hundred and sixty-two.

Collectors and assessors will be appointed, and whatever other things may be necessary to put the act into practical operation, will be done before the date fixed by this notice.

SALMON P. CHASE,  
*Secretary of the Treasury.*

## V.

ADDITIONAL DECISIONS AND REGULATIONS OF THE  
COMMISSIONER.

## INSTRUCTIONS TO COLLECTORS IN REFERENCE TO PROCESS FOR THE COLLECTION OF TAXES, AND PROSECUTIONS FOR FINES AND PENALTIES.

In answer to the various questions addressed to this office in reference to the construction of several clauses of the excise law, touching the modes of proceeding for the collection of duties, and the enforcement of fines and penalties, the commissioner has prepared the following instructions:

*General Provisions.*

Section 31 is the general enabling clause of the excise law. It authorizes suits for the collection of taxes, and prosecutions for fines, penalties, and forfeitures, to be brought by the collector, or the deputy collector, in the name of the United States, or of the collector of the district, in any circuit or district court of the United States, or in any other court having competent jurisdiction.

Under this clause, there is no doubt that suits may be brought in State courts, and before magistrates having jurisdiction of the amount in issue. Collectors, however, can use their own discretion in the matter, and select whichever court they think will most speedily enforce the collection of taxes, fines, and penalties. In case of resort to the courts of the United States, the suits and prosecutions will be conducted by the district attorneys of the United States. In the absence of general instructions to the district attorneys, application will be made, in special cases, to this office, soliciting instructions from the attorney general.

Aside from such suits in the United States courts, and the special provisions of the law in certain sections, the services of United States marshals and attorneys are not required; nor does the excise law make any provision for the employment or payment of counsel.

The other principal "general provisions" of the law are contained in sections 6, 7, 8, 9, 11, 15, 19, 20, 21, 27, 28, 35, and 114. Special attention is directed to section 114, under which persons having taxable property in possession in fraud of the law may be summarily dealt with.

*Collections.*

The duties on the *annual, monthly*, and other lists, are to be collected in the manner following, viz.:

The annual collection list of a district, when completed, must be advertised as a whole, and not in parts.

Deputy collectors, as well as collectors, may give notice that duties "have become due and payable, and state the time and place at which they will attend," &c., and may themselves attend at the time and place in person.

Collectors may give notice that they will receive taxes in person at several different places, at different times, in each county, or by themselves and deputies at different places at the same time.

#### I. *Annual lists.*

With regard to all persons named in the annual lists who shall neglect to pay, according to the notice of time and place given by public advertisement and four posted notifications (sec. 19), it is the duty of the collector, within *twenty days* after such neglect, to make a demand personally, or at the dwelling or usual place of business of such persons, resident or named as resident in his division, for payment of said duties or taxes, with ten per centum additional upon the amount; and, in the case of corporations, demand will be made at the office of the treasurer, and a notice served upon him or upon the president of such corporation.

The ten per centum penalty, prescribed in section 19, attaches only to the lists of which notice is given by advertisement and four posted notifications; none but annual lists are required to be advertised in that manner; and no extra per centum is to be added to monthly, quarterly, or other lists, except as specially provided in sections 46, 55, 80, 88, and 92. The penalty *must* be added when incurred.

In case the *annual* duties, advertised as above mentioned, shall not be paid within ten days from and after the personal demand therefor aforesaid, the collector shall proceed to collect said duties or taxes, with ten per centum additional, as aforesaid, by distraint, as herein after directed.

#### II. *Monthly and other lists.*

As to *monthly lists*, containing taxes or duties on *manufactures* (sections 69 and 72), on *auction sales* (section 76), on *slaughtered cattle*, &c. (section 79), and on *receipts of railroads*, &c., for transportation, &c. (section 80), the collector or his deputy is to make collection of the assessment of the preceding month, between the twentieth and last days of the month in which the list is received for collection; and each collector will then forthwith make out and return to the commissioner a detailed list, on Form 22½, according to instructions in Series 1, No. 2.

Under sections 76, 79, and 80, the duties are required to be paid to the collector at the time of rendering the monthly list. If they are not then paid, the persons owing the same are liable to distraint without further notice. And they also immediately incur the penalties severally prescribed in those sections, which may be sued for under section 31.

Yet, under the instructions above alluded to (Series 1, No. 2), ten days are allowed, after the lists are received, for the payment of the monthly taxes, as in the case of manufactures. But if the duties are not paid within the ten days, distraint may be made without further notice or demand.

In the case of the tax on *receipts of railroads*, &c. (section 80), if there is neglect or refusal to pay, within five days after demand, the

duties which the assessor has been obliged to assess on account of neglect or refusal to return the list as required, *five* per centum must be added, and collected by distraint if necessary. But when the lists are properly returned, and there is default in payment, the delinquent may be distrained without further notice.

In case of neglect or refusal to pay the duties on *manufactures* (section 69), demand will be made, within the last ten days of each month, on the person, or by leaving a written demand at the house, &c. (section 69). And if not paid within ten days after demand, the amount of such duties is to be levied upon the real and personal property of any such delinquent manufacturer (section 69); and such duties, and the expenses of levy, are a lien in favor of the United States upon the real and personal property of such person from the day prescribed for payment, to be enforced by distraint, as hereinafter directed.

Also, under section 70, in case the duties on manufactures are not paid after ten days' demand, as above stated, "the goods, wares, and merchandise manufactured and *unsold* by such manufacturer," are forfeited to the United States; and, after forfeiture is declared, may be sold, disposed of, or turned over to the use of the Government.

All such forfeited articles must be sold at public auction, unless the collector is of opinion that they will be of use to the Government, in which case the facts should be reported to the commissioner, and further instructions awaited.

Section 72 provides that proceedings may be taken in the cases therein specified, either under section 70 or section 19.

The duties on *dividends* (sections 81, 82) are payable directly to the office of internal revenue.

The duties on *advertisements* (section 88) are payable to the collector *quarterly*. If unpaid for more than thirty days after they are payable, add *five* per centum to the amount, and distraint under section 19.

The duties on *incomes* (section 92) are payable annually. If unpaid for thirty days after due, and for ten days after demand thereof made after the expiration of said thirty days, *five* per centum is to be added, and the property may be distrained on warrant from the commissioner.

The duties on *legacies*, &c. (section 112), if not paid when due, may be collected by distraint, under the general provisions, whenever default is made.

The duties on *liquors* must be collected, in case of default, as directed in sections 46 and 55.

In case a distiller or brewer neglects to keep books and make returns as required in section 54, the collector will proceed to seize the distillery or brewery, within thirty days after the cause for seizure may have occurred, and enforce the forfeiture by a proceeding *in rem*, as directed in said section. This must be specially noted, as there is no provision authorizing the duties to be assessed on distillers and brewers, as in the case of manufacturers, and the above proceeding is the only one provided in such cases of default or neglect.

*Distrain.*

Distrain under section 19, if made by the collector himself, is done by taking into possession and keeping the goods and chattels of the delinquent without further legal process, no writ or execution from a magistrate being necessary. If made by the deputy collector, he may act under a warrant from the collector, a form for which has been prepared by this office. In either case, an account of the goods or chattels which may be distrained must be made, and a copy left with the owner, and further proceedings taken as directed in sections 19 and 20.

If goods, chattels, or effects, sufficient to satisfy the duties aforesaid, shall not be found, the same may be collected by seizure and sale of real estate, under the provisions of section 21.

*Suits and Prosecutions for Licenses.*

When the duty imposed for license has already been included in the *annual* list, and returned with it, the regular course must be pursued, as specified in section 19.

But if the duty has not been so included, then, under sections 14 and 16, the list for the license must be made out and delivered by the assessor to the collector "from time to time as it becomes due," or the liability to take license becomes known, and thereupon the collector shall make out a license, and shall personally, or by his deputy, tender the same to the person liable thereto; and if such person does not immediately pay the duty imposed for such license, the amount thereof may be collected by distraint, as provided in section 19.

Also, persons who refuse to pay for license, as required in section 58, and continue to do a business requiring license *after payment has been demanded*, thereby become immediately liable, by section 59, to prosecution for three times the duty imposed for license, in *any* court of competent jurisdiction, as provided in section 31. This course may be pursued, whenever thought advisable by collectors, in such cases of delinquency. As a general rule, violations of the law should not be allowed with impunity.

In the case of peddlers, showmen, and other transient persons who willfully continue their business without license, and who are likely to pass beyond the jurisdiction of a collector before notice can be given to him by the assessor, there seems to be nothing to prevent assessors or their assistants, or other persons having knowledge of the fact whereby the penalty is incurred, from commencing suit against such transient persons in the name of the United States or of the collector of the district. If the suit or prosecution is contested, notice should be given to the collector or his deputy to attend at the trial. On recovery and payment of the penalty into court, the collector or his deputy must of course receipt for the moiety coming to the United States. After the commencement of suit, it would not be safe nor just to quash proceedings, except by the payment of the penalty and costs, unless the informing party consent thereto; and, in that case, the money coming to the United States should be paid into court, and held subject to the order of the collector.

When an assessment for license has been made upon neglect or

refusal to give the list or make the application within the time required, and the assessment is returned in the annual list, the fifty per centum penalty prescribed in section 11 *must* be added, and cannot be remitted either by the assessor or collector.

*Notice to Assessors in regard to Penalties.*

In all cases where assessors add a penalty to the amount of tax assessed, the amount of such penalty must be entered in a separate column, under an appropriate heading, in the monthly abstract.

*Fees for Levying, &c.*

The commissioner prescribes that the fees for summons, levying, advertising, and other expenses of distraint or forfeiture shall be the same as those allowed by the laws of the United States to United States marshals for similar services, or for similar work.

(Com'r Boutw., Reg. No. 3, Series 1.)

- THE ASSESSMENT, page 13.

When an affidavit annexed to a return is made by an agent, the principal of the agent must swear that the person making the affidavit is his agent, and that the statements are true according to his best knowledge and belief. When an affidavit is made by a member of a firm or company, he must swear that he is a member of such firm or company. The official character of the officer who administers the oath must be established, either by his official seal or by the certificate of the proper authority. When a claim is thus prepared it must be sent to the commissioner of internal revenue, and, if it is found correct, a draft will be drawn on the collector who received the tax in favor of the claimant for the amount that may be allowed.

Page 14.

*The amendatory act of March 3* will not relieve parties from payment of taxes previously assessed, or from liability to assessment in all cases where such liability existed at the time of the passage of the act of March 3. (Decis. No. 82.)

Page 16.

Where a tax has been erroneously assessed, and the list transmitted to the collector and to this office, the tax not having been paid, the assessor may certify to the collector the fact of such erroneous assessment, and the party so assessed may be relieved therefrom. The collector will hold such certificate as his voucher, and transmit the same to this office with his quarterly account. (Com'r Boutw., Decis. No. 67.)

Decision No. 67 is hereby revoked, and hereafter all taxes must be collected as returned by the assessors. Claims for taxes improperly paid under the excise law must be made to the commissioner of internal revenue through the collectors of the respective districts, supported by the affidavits of the claimants and the certificates of the assessor under whose direction the taxes were assessed. First, the



claimant must state in the affidavit the material facts of the case on which he makes his claim. Second, the assessor and assistant assessor must certify the statements made in the affidavit are true so far as each has knowledge of the facts. Third, the collector must append his certificate that the tax has been paid to him as stated in the affidavit. (Com'r Boutw., Decis. No. 90.)

BEER, page 40.

The commissioner of internal revenue has also decided that weiss bier, or white beer, is subject to the same duty as ale and lager beer, and its manufacturers are subject to all the liabilities of brewers.

BONDS (*Canal and Turnpike*), page 46.

The 8th section of the amendment to the excise law, approved March 3d, 1863, requires the managers of all canal companies, canal navigation, or slackwater corporations, and turnpike companies, to withhold three per cent from all payments thereafter due on account of interest on bonds and other evidences of indebtedness, or coupons representing interest, or dividends in scrip or money, and to make return and payment thereof to the commissioner of internal revenue.

When bonds are issued by a State, county, city, or town, in aid of either of the above companies, whereof the interest is to be paid by the company, the Government tax of three per cent must be withheld, although neither bond nor coupon may express the liability of the company; such an arrangement being virtually an endorsement of the company's bonds by the said State, county, city, or town.

Whether the interest is paid by the State, county, city, or town, and received from the company, or paid by the company directly to the bondholders, is immaterial. In either case, the managers of the company must account to the Government for the tax.

The payment of the tax may be assumed by the company, provided the following proportion is sustained: as 97 is to 3, so is the amount paid to stock or bondholders to the amount of tax due the Government.

Returns and payments are to be made quarterly, commencing April 1st, 1863; but the first statement will only include such payments of interest, coupons, and dividends as were due in the month of March, after the 3d inst. Blanks will be furnished from this office, which must be duly filled and returned, whether any tax has accrued or not.

It is desirable that the amount of tax should be deposited with the nearest United States assistant treasurer or designated depository, and the *original* certificate thereof sent with the return; but, if more convenient, payment may be made by draft or in treasury notes. (Decis. No. 84.)

CLOTH, page 63.

1. That in ascertaining the "increased value" of cloths, mentioned in this section, assessors will require returns of sales of such cloths when dyed, printed, bleached, or prepared, and, from the amount or price per yard or piece, deduct the estimated value there-

of at the time of such sale; provided the same had not been so dyed, printed, bleached, manufactured or otherwise prepared, and will assess the tax upon the difference.

The evidence as to value in the preliminary stage of manufacture must be satisfactory to the assessor, and the best of which the case will admit.

2. The evidence in support of a claim for the remission or repayment of a tax must be to the same points; satisfactory to the assessor; and, as far as possible, the claim should be supported by the oath of the party, or of persons having knowledge of the facts.

3. Where the evidence in support of such claims shall have been approved by the assessor as satisfactory, it should be transmitted to the commissioner of internal revenue for final action. (Com'r Boutw., Decis. No. 85.)

#### LEATHER, page 111.

Leather, tanned and removed from the place of manufacture prior to September 1st, is not liable to duty when curried or finished.

All leather, whether damaged or sound, finished or curried in the interest of the parties who tanned the same, is subject to a duty of one cent per pound on the curried leather; *provided* the specific tax had not been previously paid on the tanned leather. (Com'r Boutw., Decis. No. 81.)

#### MANUFACTURES IN GENERAL, page 131.

Whenever a manufacturer shall use, or shall remove for consumption or use, any articles, goods, wares, or merchandise which, if removed for sale, would be liable to taxation as manufactures, he shall be assessed on the salable value of the articles, goods, wares, or merchandise so used, or so removed for consumption or use. It is not necessary, in order to render a manufacturer liable to taxation under this decision, that the articles so removed for consumption or use should be removed from the premises, or even from the building in which they were made. (Com'r Boutw., Decis. No. 79.)

#### MANUFACTURES IN GENERAL, page 134.

Any article known to commerce as an article of traffic, which is produced by hand or machinery, must be regarded as a manufacture and subject to a tax, unless specially exempted by law.

Whenever articles are manufactured *without* special order and for general sale, the presumption that they are articles of trade is so strong, that no amount of proof can rebut this presumption so as to exempt the manufacturer from the payment of tax.

When articles are made upon *order*, then an inquiry must be instituted for the purpose of ascertaining whether such articles are known to the commerce of the country, or, if offered for sale, whether purchasers could be found. If either of these conditions should be established, the manufacture would be liable to tax. If, however, it should appear that the articles produced are not known to trade, and could not be sold if offered to the public, they would then be exempt from taxation as not being manufactures within the meaning of the law. (Com'r Boutw., Decis. No. 71.)

## PEDDLERS, page 152.

*Itinerant vendors of maps in any form, or of books or pamphlets, other than those exempted by the words of the excise law, must take out licenses as peddlers of the first, second, third, or fourth class, as the case may be. The practice of obtaining subscriptions to such books, pamphlets or maps, and of delivering them, and receiving money therefor at the time of the subscription or afterwards, is held to be peddling under the excise law. Peddlers must obtain licenses of the collectors of the districts in which said peddlers respectively reside, and, under such license, they can pursue their occupation in any part of the United States not prohibited to them by local law. (Decis. No. 78.)*

## SHIPS, VESSELS, AND STEAMERS, page 164.

All ships, barks and other vessels, no matter when finished, are exempt from the duty if their keels were laid before March 3, 1863. (Com'r Boutw., *N. Y. Trib.*, March 25, '63.)

## SLAUGHTERED CATTLE, HOGS, &amp;c., page 167.

Every person or firm having a place where the business of slaughtering animals for sale is carried on, must be held responsible for the returns required by sections 78 and 79 of the excise law.

If, at such place, parties are permitted to slaughter animals named in said sections, by such permission they become the agents or employees of the owner for that particular purpose, but the principal alone is responsible for the duties levied upon animals so slaughtered.

The assessor or assistant assessor will, however, receive the required lists from such agents, or employees, whenever the requisite facts are within their knowledge; *provided, always*, that animals slaughtered by any person, for his own consumption, need not be included in the returns, as such are exempt from duty. (Com'r Boutw., Decis. No. 74.)

## STEAMBOATS, page 170.

Any person or persons, firms, companies, or corporations owning or possessing, or having the care or management, of any steam vessel for transportation of passengers, must include, in the returns of the gross receipts, all sums received for lodging, including receipts for the use of berths and state-rooms. (Com'r Boutw., Decis. No. 73.)

## TAILORS, page 173.

This provision, exempting custom work, &c., is considered to apply to such clothing as articles of dresses, for men's, women's, or children's wear, as are made upon personal order at the shop or place of business of the manufacturer by the person or persons for whom such articles are made or manufactured; and all clothing or articles of dress sold in quantities exceeding the ordinary personal wants of individuals, or in such quantity as to indicate that the purchaser intends to offer them for sale, will be subject to a duty of three per cent, *ad valorem*, on the full amount of sales. (Decis. No. 83.)

Under section 73 of the act of July 1st, 1862, any person who makes goods, wares, or merchandise, or articles known as manufac-

tures, either for his own use or for sale, of the amount of \$600 per annum, is regarded as a manufacturer; and whenever the total amount of manufactures of any such person exceeds the sum of \$600 per annum, he is liable to taxation on the whole sum, unless exempted by law.

In the first section of the act of March 3d, 1863, it is provided that "tailors, boot and shoe makers, milliners and dress-makers, making clothing or articles of dress, for men's, women's, or children's wear, to order, as custom work, and not for sale generally, shall, to the amount of one thousand dollars, be exempt from duty, and for any excess beyond the amount of one thousand dollars shall pay a duty of one per centum, *ad valorem*." Whenever any such person shall make and sell such goods to the amount of \$600, he must be regarded as a manufacturer.

If, therefore, a tailor should manufacture and sell \$600 worth of clothing, made to order, as custom work, in any one year, and should make an equal amount for sale generally, he would be liable to assessment on the last-named amount, at the rate of three per centum, *ad valorem*.

Where one party furnishes the materials, or any part thereof, and another party is employed to manufacture, make, or finish the goods, wares, merchandise, or articles, the value of the materials will be included as a part of the thousand dollars aforesaid exempt from taxation. (Decis. No. 87.)

THE INCOME TAX, page 180.

Guardians and trustees, whether such trustees are so by virtue of their office, as executors, administrators, or other fiduciary capacity, are required to make return of the income belonging to minors or other persons, which may be held in trust as aforesaid, and the income tax will be assessed upon the amount returned, after deducting such sums as are exempted from the income tax, under section 91 of the excise law of July 1st, 1862, as amended by the 1st section of the act of March 3d, 1863; *provided* that the exemption of \$600, under section 90 of the excise law, shall not be allowed on account of any minor or other beneficiary of a trust, except upon the statement of the guardian or trustee, made under oath, that the minor or beneficiary has no other income from which the said amount of \$600 may be exempted and deducted. (Decis. No. 88.)

SUPPLY OF STAMPS, page 188.

By regulation of the bureau, no revenue stamps will now be received in exchange for revenue stamps of other kinds or denominations excepting at a discount of one per cent on the amount exchanged.

COIN CONTRACTS, page 199.

Acting Commissioner Estee answers as follows to a question on the construction of this provision:

First—Does the law, as passed, interfere with the legality of contracts made for the delivery of coin for more than three days' time at a premium in currency?

Second—If not, are such contracts taxable upon the par value of the coin? or is the tax to be calculated upon the currency value named in the contract? For example: \$1,000 gold, contracted for at \$1,600 for 60 days, will be \$1,600, 60 days' interest \$16. Will the tax be \$15 or \$24?

Contracts made for the delivery of coin, if to be performed after a period exceeding three days, must be in writing, and signed by the parties, or their agents or attorneys, and stamped in a sum equal to one-half of one per centum of the amount of the purchase-money to be paid for a given quantity of gold or silver coin, or bullion, as the case may be. Contracts so made in writing, and duly signed and stamped, are valid.

In case of the example given by you, which I understand to be a contract to deliver \$1,000 in gold coin at sixty days from the date of the contract, for the sum of \$1,600 currency, no stamp is required on account of interest. If, however, a party should loan \$1,600 in currency upon the pledge of \$1,000 in gold or silver coin of the United States, such loan would be utterly void. (*N. Y. Trans.*, March 25, '63.)

#### ASSIGNMENTS AND CONVEYANCES, page 199.

When a conveyance is made by a trustee, to a successor or substitute, of lands belonging to the same beneficiary, that fact fully appearing in the instrument, the deed or conveyance is exempt from stamp-duty.

If stocks are transferred and new certificates issued, a new certificate stamp will be required in each case.

The assignment of mortgages and bonds by a trustee to his successor will be governed by the rule applicable to conveyances, and will, of course, be exempt from stamp-duty. (*Acting Com'r Estee*, April 1, '63.)

#### Page 199.

In all cases of conveyance of real estate by deed, the stamps used must answer to the *value* of the estate conveyed.

When the consideration is nominal, the *value* of the property conveyed is the measure of the stamp-duty.

When an estate that is encumbered by mortgage, or deed of trust, is conveyed, subject to the encumbrance, the stamp must answer to the *value* of the equity, unless the payment of the mortgage debt is assumed by the grantor.

When two or more persons join in the execution of an instrument, the stamp to which the instrument is liable under the law may be affixed and canceled by any one of the parties. (*Decis. No. 75.*)

#### POWER OF ATTORNEY, &c., IN MORTGAGE, page 202.

It is the ruling of the revenue bureau that neither a power of attorney, nor agreement to insure, &c., embodied in a mortgage which is properly stamped, are subject to special duty. (*Acting Com'r Estee*, March 31, '63.)

PROMISSORY NOTES, page 206.

Commissioner Lewis has given it as his opinion that the act of March 3d takes away the \$20 limitation of the original statute; so that *all* notes, whether over or under \$20, require stamps. We think this construction plausible, and, on the whole, sound. In view of this decision, we give the following corrected table of duty on promissory notes:

Amount of Note or Draft.	33 Days.	63 Days.	93 Days.	4 Months.	6* Months.	6† Months.
Under \$200.....	\$0 01	\$0 02	\$0 03	\$0 04	\$0 06	\$0 10
200 to 400.....	2	4	6	8	12	20
400 " 600.....	3	6	9	12	18	30
600 " 800.....	4	8	12	16	24	40
800 " 1,000.....	5	10	15	20	30	50
1,000 " 1,200.....	6	12	18	24	36	60
1,200 " 1,400.....	7	14	21	28	42	70
1,400 " 1,600.....	8	16	24	32	48	80
1,600 " 1,800.....	9	18	27	36	54	90
1,800 " 2,000.....	10	20	30	40	60	1 00
2,000 " 2,200.....	11	22	33	44	66	1 10
2,200 " 2,400.....	12	24	36	48	72	1 20
2,400 " 2,600.....	13	26	39	52	78	1 30
2,600 " 2,800.....	14	28	42	56	84	1 40
2,800 " 3,000.....	15	30	45	60	90	1 50
3,000 " 3,200.....	16	32	48	64	96	1 60
3,200 " 3,400.....	17	34	51	68	1 02	1 70
3,400 " 3,600.....	18	36	54	72	1 08	1 80
3,600 " 3,800.....	19	38	57	76	1 14	1 90
3,800 " 4,000.....	20	40	60	80	1 20	2 00
4,000 " 4,200.....	21	42	63	84	1 26	2 10
4,200 " 4,400.....	22	44	66	88	1 32	2 20
4,400 " 4,600.....	23	46	69	92	1 38	2 30
4,600 " 4,800.....	24	48	72	96	1 44	2 40
4,800 " 5,000.....	25	50	75	1 00	1 50	2 50
10,000.....	50	1 00	1 50	2 00	3 00	5 00
15,000.....	75	1 50	2 25	3 00	4 50	7 50
20,000.....	1 00	2 00	3 00	4 00	6 00	10 00
25,000.....	1 25	2 50	3 75	5 00	7 50	12 50
30,000.....	1 50	3 00	4 50	6 00	9 00	15 00
35,000.....	1 75	3 50	5 25	7 00	10 50	17 50
40,000.....	2 00	4 00	6 00	8 00	12 00	20 00
45,000.....	2 25	4 50	6 75	9 00	13 50	22 50
50,000.....	2 50	5 00	7 50	10 00	15 00	25 00
60,000.....	3 00	6 00	9 00	12 00	18 00	30 00
70,000.....	3 50	7 00	10 50	14 00	21 00	35 00
80,000.....	4 00	8 00	12 00	16 00	24 00	40 00
90,000.....	4 50	9 00	13 50	18 00	27 00	45 00
100,000.....	5 00	10 00	15 00	20 00	30 00	50 00

\* 6 months or less.

† Over 6 months.

These stamp-duties attach to notes made after March 3, 1863. It is provided, however, that a note is not to be deemed invalid for want of a stamp, if issued prior to June 1, 1863. A note without a stamp cannot be sued on until the provisions of the law mentioned on page 187, *ante*, have been complied with.

LOTTERIES, page 124.

Acting Commissioner Estee decides (April 3, 1863), as to license for lottery dealers, as follows :

Article 37 of section 64, as amended in the first section of the act of March 3, 1863, is considered to authorize a person, association, firm, or corporation to sell lottery tickets under a license, as contemplated in said article, at a place of business specified in the license granted. It cannot, however, be considered as authorizing the agents of such person, association, firm, or corporation, that may have been licensed as aforesaid, to sell at places other than that named in the license.

The particular application of this rule would authorize a corporation, established by the State of Missouri, to sell lottery tickets at its place of business whenever licenses shall be applied for and granted. If, however, corporations shall employ agents in various parts of the State to sell tickets upon commission, such agents will be required severally to take licenses under said article.

GIFT ENTERPRISES, &c.

The acting commissioner has decided that an advertised proposal to sell a thousand tickets at \$1 each admitting the holder to a concert, and to distribute, by lot or hazard, one hundred prizes among the holders of the thousand, is a lottery within the meaning of the act.

This proceeding answers to a definition given to lotteries, viz : "A distribution of prizes and blanks by chance ; a game of hazard in which small sums are ventured for the chance of obtaining a larger value, either in money or other articles." This definition conforms to the letter and spirit of the law of Congress, and describes with exactness the character of the gift concert advertised. It is not possible for the bureau to make any distinction growing out of actual or supposed difference in the objects to which the proceeds of the enterprise are to be devoted. It is the peculiar characteristic of the lottery system in all countries that it has had its origin in real or pretended purposes to give aid to philanthropic or benevolent movements.

"The ruling of this office requires superintendents and ticket-sellers of raffles to take license as lottery ticket-dealers.

" EDWARD MCPHERSON,

" Dep. Com'r.

" April 17th, 1863."

BONDS (RAILROAD), page 47.

The commissioner has issued the following regulation :

Companies authorized by charter to build railroads or canals, upon which passengers and freight other than that of the company are to be transported, being indebted for any sum or sums of money for which bonds or other evidences of indebtedness have been, or shall be issued, payable in one or more years after date, are required to withhold three

per centum from all payments on account of coupons or interest upon such indebtedness as was incurred on account of such railroad or canal, and to make quarterly returns and payment thereof to the commissioner of internal revenue. (Decis. No. 98.)

CANDY AND CONFECTIONERY, page 72.

As to the effect of the amendment of March 3, the commissioner decides—

1. That all articles of sugar-candy or confectionery which were usually sold by weight at the time of the passage of said act (March 3, 1863), or which shall not exceed the value of forty cents per pound at the time of sale, must be taxed by the pound, even though the manufacturer may have made sales without specifying the weight in the bills rendered to the purchaser.

2. The phrase "or when sold otherwise than by the pound," is construed to refer to articles of ornament, whose value does not depend so much upon the weight of the material used, as upon the taste and skill exhibited in the manufacture.

COAL OIL, page 68.

The commissioner has decided that whenever a distillate is removed, and the quantity shall have been reported to the collector of the district to which the removal is made, and a certificate thereof given by said collector, and transmitted to the collector of the district from which the removal is made, the bond required by a former decision shall be canceled. (Decis. No. 92.)

OILS, page 147.

The commissioner decides that oil manufactured, without distillation, from paraffine and benzole will be subject to a duty of three per cent, *ad valorem*. Coal illuminating oil, manufactured by the distillation or redistillation of benzole, paraffine, or other bituminous substances, is subject to a duty of ten cents per gallon. (Decis. No. 96.)

AGREEMENTS, page 192

In reply to a question put to the commissioner, whether the stipulations and agreements in writing, which lawyers in the course of their practice are obliged frequently to give—a. g. as to mode of trial, the examination of witnesses, &c.—are subject to stamp duty, the acting commissioner refers to the schedule, and marks *Agreements*. It is doubtless, therefore, the opinion of the bureau that such papers require a five-cent stamp.

PRODUCTS OF IRON FOUNDERIES.

The commissioner has made the following decisions with reference to the taxes imposed upon the various products of iron founderies:

I. All steam-engines, whether marine, locomotive or stationary, are subject to a duty of 3 per centum, *ad valorem*.

II. Cast-iron shafting is liable in all cases to a specific duty of \$1 50 per ton under the act of March 3, 1863. Wrought iron shafting, if held to be a manufacture within the meaning of Decision No. 71, is liable to a tax of 3 per centum, *ad valorem*.



III. Railroad car wheels are taxable in all cases \$1 50 per ton. All other castings of iron exceeding ten pounds in weight, not otherwise provided for, are taxable \$1 50 per ton by the act of March 3, 1863.

IV. Castings of all descriptions made exclusively for instruments or machinery upon which duties are assessed and paid, are exempt from duty. (Act March 3, 1863, sec. 2.)

V. Castings not exceeding ten pounds weight, and which are so well known and so generally used as to have a commercial value in themselves, are taxable 3 per centum, *ad valorem*, when not otherwise provided for.

VI. Castings used for bridges, buildings, or other permanent structures, are taxable \$1 per ton. Permanent structures are interpreted to mean bridges, buildings, monuments and edifices of all descriptions. Lamp-posts, water and gas pipes are not held to be permanent structures; but all such castings are taxed at the rate of \$1 50 per ton.

VII. Stoves and hollow ware are taxable at the rate of \$1 50 per ton of 2,000 lbs.

VIII. Casual and ordinary repairs are not taxable. But in the renewal of any part of an engine, as, for instance, a boiler, cylinder, piston-rod, valve-motion, governor, such parts being considered manufactures in themselves, are taxable, when made to replace a corresponding part of an engine broken or worn out and thrown aside. The same is true of cars and all machinery when new parts are supplied.

IN REGARD TO THE REMOVAL OF TOBACCO UNDER BOND FOR EXPORTATION, UNDER SECTION 34 OF THE AMENDMENTS OF MARCH 3, 1863.

Tobacco may be removed from the place of manufacture for the purpose of being exported without payment of the internal revenue duties thereon previous to such removal: *Provided*, the quality and weight thereof shall have been ascertained by the inspection of the officer of the United States appointed for that purpose, and the said quality and weight, together with the date of inspection and the name of inspector marked thereon; and *provided*, that the owners thereof shall first execute bonds to the United States, with sufficient sureties, in at least double the amount of said duties, conditioned that the same shall be exported, or the duties thereon, with interest, paid within a period not exceeding ninety days from the date thereof.

No tobacco shall be exported under bond where the duties shall not amount to at least \$300.

When a bond for export has been given, the same may be canceled by the collector, upon the parties paying to him the duties on said tobacco, together with interest thereon, at the rate of six per cent, to the date of such payment, or upon evidence being furnished him that the said tobacco has actually been exported. Which evidence of exportation shall be as follows, viz :

*First.* The certificate of the collector or other competent officer of the customs, verified by the official seal, to the effect that said tobacco has been exported, which certificate shall set forth the description of the same, the quantity, quality, weight, date of inspection, name

of inspector, date of shipment, name of vessel, port to which exported, and name of exporters.

*Second.* The affidavits of the owners and exporters of said tobacco, setting forth that the tobacco exported is the identical tobacco to export which said bond was given; that the same was exported at the date and in the manner certified by the custom-house officer; that all the conditions of said bond have been faithfully complied with, and that the parties thereto are justly entitled to have the same canceled and declared null and void.

This affidavit must be taken before a notary public, or other magistrate. If taken before a justice of the peace, there must be a certificate from a proper officer that such person is duly authorized to administer oaths.

When the foregoing evidence is submitted to the collector to whom said bond has been given, he may, if he be satisfied therewith, cancel the bond and forward the same, together with the evidence, to this office, that his action in the premises may be approved. (Com'r Lewis, Regulation No. 95.)

BANKS.—Page 39.

CONCERNING TAX ON BANK CIRCULATION AND DEPOSITS.

By the seventh section of an act entitled "An act to provide ways and means for the support of the government," all banks, associations, corporations, and individuals, issuing notes or bills for circulation as currency, are required to make a return on the first day of October, 1863, and each six months thereafter, to the commissioner of internal revenue, in the manner by him prescribed, of the average amount of such circulation during the half year then preceding, with payment of tax, as follows:

Banks, associations, corporations, and individuals, having a capital not exceeding \$100,000, one per cent on the excess of the average circulation over ninety per cent of the capital; one half per cent on the average circulation not exceeding ninety per cent of the capital.

Upon banks having a capital exceeding \$100,000, and not exceeding \$200,000, one per cent on the excess of the average circulation over eighty per cent of the capital; one half per cent on the average circulation not exceeding eighty per cent of the capital.

Upon banks having a capital exceeding \$200,000, and not exceeding \$300,000, one per cent on the excess of the average circulation over seventy per cent of the capital; one half per cent on the average circulation not exceeding seventy per cent of the capital.

Upon banks having a capital exceeding \$300,000, and not exceeding \$500,000, one per cent on the excess of the average circulation over sixty per cent of the capital; one half per cent on the average circulation not exceeding sixty per cent of the capital.

Upon banks having a capital exceeding \$500,000, and not exceeding \$1,000,000, one per cent on the excess of the average circulation over fifty per cent of the capital; one half per cent on the average circulation not exceeding fifty per cent of the capital.

Upon banks having a capital of over \$1,000,000, and not exceeding \$1,500,000, one per cent on the excess of the average circulation

over forty per cent of the capital; one half per cent on average circulation not exceeding forty per cent of the capital.

Upon banks having a capital of over \$1,500,000, and not exceeding \$2,000,000, one per cent on the excess of the average circulation over thirty per cent of the capital; one half per cent on the average circulation not exceeding thirty per cent of the capital.

Upon banks having a capital of over \$2,000,000, one per cent on the excess of the average circulation over twenty-five per cent of the capital; one half per cent on the average circulation not exceeding twenty-five per cent of the capital.

Fractional notes, or bills issued or reissued subsequent to April 1st, 1863, are subject to a duty of five per centum upon the amount of such fractional notes or bills, payable semi-annually.

In the case of banks with branches, the duty is imposed upon such branches severally, and the amount of capital of each branch shall be considered to be the amount used by such branch. Each branch will account for the amount of circulation actually employed, whether furnished by the branch or by the parent bank.

All banks, associations, corporations, and individuals receiving deposits of moneys subject to payment on check or draft (excepting savings institutions) must pay a duty of one eighth per centum each half year, from and after April 1st, 1863, upon the average amount of such deposits beyond the average amount of circulating notes or bills lawfully issued and outstanding as currency. When deposits are received and no notes are issued as currency, the tax must be paid upon the average amount of the deposits. Taxes will be estimated upon the average of the daily or weekly statement of circulation and deposits.

A return and the payment of the tax is required within thirty days succeeding April 1st and October 1st in each year, under a penalty of five hundred dollars for default. The first return under the law is required in October, 1863, for the six months then preceding.

Blanks will be furnished from this office. The amount of tax should be deposited with the nearest United States assistant treasurer or designated depositary, and the original certificate thereof sent with the return; but, if more convenient, payment may be made in United States notes. (Com'r Lewis, Regulation No. 93.)

#### REGULATIONS CONCERNING LICENSES.

All licenses granted on applications made prior to March 3d, 1863, will be issued in accordance with the provisions of the Act of July 1st, 1862.

All licenses granted on applications made subsequent to March 3d, 1863, will be dated on the first day of the month in which they are issued, and will expire on the first day of May next succeeding. If, however, the applicant was liable to assessment at a time prior to the date of his application, and subsequent to March 3d, 1863, the license will be issued to cover the period of such liability, and the assessment made will be of a ratable proportion of the annual amount of duty imposed on such license.

On the first Monday in May, 1863, all unexpired licenses will be assessed in a ratable proportion from the time when they expire to the first day of May, 1864, and the new license will state that the licensee is authorized to transact the business named therein from the date of the expiration of the existing license to the said first day of May, 1864.

If any person having an unexpired license on the 1st day of May next shall be assessed therefor until the 1st day of May following, and such person shall cease to transact the business contemplated by such license at or before the time of the expiration of the first named license, the amount assessed for the continuance of such license may be remitted or refunded, agreeably to the provisions of Decision 90. (Com'r Lewis, Reg. No. 94.)

#### CONCERNING UNSTAMPED PROPRIETARY ARTICLES.

There is reason to believe that many manufacturers of proprietary articles, such as patent medicines, perfumery, cosmetics, playing cards, and all other articles mentioned in schedule C of the excise law, who issued such articles after September 1st, 1862, without placing stamps upon them, in accordance with the 107th section of the excise law, have failed to make returns of such issues, and to make payment to this office of amounts equal to those they would have paid for stamps, had stamps been obtainable when said articles were issued; or, if they have issued no unstamped proprietary articles, that they have failed to subscribe and file with you the oath (Form No. 34), as required by section 110 of the excise law.

With a view, therefore, to correct this state of things, I have to request that you will, as soon as possible, make two lists of the names and residences of all manufacturers of proprietary articles doing business in your district, and that you will annex to their names the names of the various proprietary articles they manufacture, and that you will retain one list for your own use, and forward the other to this office. Your own list should be inscribed in a book kept for the purpose, and the list to be forwarded to this office should be upon foolscap paper.

You will then notify each such manufacturer that he is required to make sworn returns, through you, to this office, of all unstamped articles he has issued since the first of September, 1862, together with the retail price of each such article, the value of the stamp required to be placed thereon, and the sum total of their united value, specifying the amount of such issue since September 1st, 1862, up to the date on which he discontinued the issue of unstamped proprietary articles, after the manner of the enclosed form.

When any such manufacturer claims to have made his return to this office, under previous instructions, and to have paid the stamp tax thereon, you will require that he exhibit to you, or to one of your assistants, the receipt of this office for the amount; and you will note the amount of such receipt opposite the name of the holder upon your list of manufacturers of proprietary articles, and make return of the fact to this office.

When you have received the returns, you will immediately satisfy

yourself, as far as possible, of their correctness, not only as to fact, but as to form, and then transmit them to this office; and you will note upon your list of manufacturers of proprietary articles, opposite to each manufacturer's name, the fact that you have received and sent forward his return. You will also notify manufacturers of proprietary articles in your district who claim to have stamped all proprietary articles they have issued, that they must subscribe and file in your office an oath (Form No. 34) that they have not issued any unstamped articles since September 1st, 1862, or since the date of their last return of unstamped articles, up to April 1st, 1863; and after noting the reception of such oath opposite the name of its subscriber upon your list of manufacturers of proprietary articles, you will transmit the oath itself to this office.

And you will further require of said manufacturers that they subscribe and file in your office, on the first day of each month after April 1st, 1863, an oath in conformity to form No. 34, covering the issues of the preceding month, until October 1st, 1863; and you will, after noting its receipt opposite the name of its subscriber, forward such oath at once to this office.

You will, from time to time, review this list, and make note of such manufacturers of proprietary articles as have failed to make returns or file oaths as above, and you will give them notice at once of their duty in the premises; and if they shall, for five days after such notice, neglect to make returns or file oaths, you will report their names, with the facts, to this office. (Com'r Lewis, Reg. No. 91.)

#### CONCERNING MINING AND OTHER COMPANIES OWNING OR POSSESSING ANY RAILROAD OR CANAL.

Companies authorized by charter to build railroads or canals upon which passengers and freight other than that of the company are to be transported, being indebted for any sum or sums of money for which bonds or other evidences of indebtedness have been or shall be issued, payable in one or more years after date, are required to withhold three per cent from all payments on account of coupons or interest upon such indebtedness as was incurred on account of such railroad or canal, and to make quarterly return and payment thereof to the commissioner of internal revenue. (Com'r Lewis, Decis. No. 98.)

#### CONCERNING PROCEEDINGS AGAINST DELINQUENTS AND VIOLATORS OF THE EXCISE LAWS.

Whenever a collector has occasion to commence proceedings for the recovery of sums due on assessments or on penalties, he will report the same to the United States district attorney for the district, whenever the office of such attorney is not too remote to permit the reference of the case to him.

When a consultation cannot be had with the district attorney without great inconvenience, the collector is authorized to employ counsel to initiate such proceedings as may be necessary, who will report to the district attorney.

The proceedings will, in all cases, be commenced in the name of the United States, and in the district or circuit court of the United States, and the management of every cause so commenced will be entrusted to the district attorney for the district. (Com'r Lewis, Reg. No. 99.)

CONCERNING THE MANUFACTURE OF MEDICINES, &c., IN BONDED WAREHOUSES FOR EXPORTATION.

Agreeably to the 28th section of an act to amend the excise law of July 1, 1862, passed March 3, 1863, the following regulations are prescribed :

1st. Any manufacturer of medicines, preparations, compositions, perfumery, or cosmetics, having a bonded warehouse, known and designated in the treasury regulations as a bonded warehouse, class two, who shall have first given satisfactory bonds to the collector of internal revenue of the district for the faithful observance of the rules and regulations duly prescribed by or under the law, in such sum as is by law required, may, under such rules and regulations as may be prescribed by the secretary of the treasury, convey into such warehouse any materials used in the manufactures aforesaid, which, by the provisions of the act of July 1, 1862, entitled "An act to provide increased revenue from imports to pay interest on the public debt, and for other purposes," may be exported free from tax or duty, as well as the necessary materials, implements, packages, vessels, brands, and labels for the preparation, putting up, and export of said manufactured articles; and such articles and materials may be transferred from any bonded warehouse, class one, upon the written permit of the collector or other person having charge of such last-named warehouse, and upon the written request of any deputy collector of internal revenue having charge of any bonded warehouse, class two, but not otherwise.

2d. The collector, or other person having charge of any bonded warehouse, class one, shall keep a book, in which shall be duly entered all articles removed as aforesaid, the person to whom delivered, and the time of delivery.

3d. Every deputy collector having charge of any bonded warehouse, class two, shall keep a book, in which a transcript of every order given as aforesaid, or for the delivery of packages from on shipboard, shall be duly entered and recorded.

4th. It shall be the duty of the collector of customs, whenever any goods are removed from on shipboard, as is provided in said section, to cause a record to be made of all articles so removed, the time when removed, and the person to whom delivered.

5th. Medicines, preparations, compositions, perfumery, or cosmetics, manufactured as aforesaid, shall not be removed from the place of manufacture, except upon the written permit of the deputy collector of internal revenue having the custody of the warehouse where the same was manufactured, and under the personal supervision of an officer of the customs having charge of the exportation thereof.

6th. The manufacturer shall give bond in an amount required by section 28 of the act of March 3, 1863.

7th. At the end of each month, or on or before the 5th day of the following month, every such manufacturer will make a return, under oath, of the articles so exported; and he will also declare that he has not removed, or caused to be removed, from the place of manufacture, any materials or articles manufactured, except as by law authorized and agreeably to the return made. (Com'r Lewis, Reg. 101.)

#### CONCERNING SAILS, TENTS, SHADES, AWNINGS, AND BAGS.

Sails, tents, shades, awnings, and bags, when manufactured by persons who own the material, are subject to a duty of three per cent, *ad valorem*.

Whenever the cloth or material used in the manufacture of the above enumerated articles shall have been imported, or shall have been subject to and have paid a duty under the excise law, and the party manufacturing such articles is not the owner of the materials, the articles so manufactured are exempt from duty. (Com'r Lewis, Decis. No. 102.)

#### CONCERNING THE TRANSFER OF LICENSES.

When a person holding a license desires to change his place of business, he must apply to the assessor of the district in which his license was granted for permission to remove the business to another part of the district, or to another district; in either case stating specifically the place and premises to which he intends to remove. If satisfied of the applicant's bona fide intention to remove, the assessor will certify the facts to the collector who granted the license, and will at the same time make an entry of the facts against the name of the person in his license record.

The collector, upon receiving this certificate, will indorse on the license permission to remove, as follows: "Permission is hereby given to the within named A—— B—— to remove from the premises within described to ——, and to carry on the trade [or profession or business] specified in the within license, at said described place or premises, during the residue of the term for which the within license was originally granted;" and the collector will make an entry of the indorsement, in brief, in his license record.

If the holder of the license removes to another district, he must present his license, properly indorsed, to the assessor of that district, who will make an entry of the same in his license record.

Assessors and collectors must use due precautions to prevent persons from carrying on the same business in different places under one license. (Com'r Lewis, Decis. No. 103.)

#### CONCERNING LICENSE OF HOTEL KEEPERS AND LIQUOR DEALERS.

The act of Congress of the first day of July, 1862, called the excise law, directs that "every place where *food* and *lodging* are provided for, and furnished to travelers and sojourners in view of payment, shall be regarded as a hotel, inn, or tavern, under the act." In order, therefore, to be entitled to carry on that branch of business which consists in accommodating travelers and sojourners with food and lodging for pay, the keeper must have a license; and the class to

which his hotel belongs, reckoned according to its rental value, determines the sum of money which the license will cost him. If that value is \$10,000, he must pay \$200; if it is but \$100, he must pay \$5. The license fee is graded according to the rent or rental value, and there are three different classes to which the fee assigned is less than twenty (\$20) dollars.

If to the business of providing for travelers and sojourners, the hotel keeper adds the retailing of spirituous liquors, he is required to pay an additional sum of twenty (\$20) dollars for license; and this he must pay, whether his hotel belongs to the first, last, or any intermediate class.

The 4th paragraph of the 64th section of the act is imperative. It says retail dealers in liquors, including distilled spirits, fermented liquors, and wines of every description, shall pay twenty dollars for each license. This has obviously no relation to the provision for sale of food or lodging. A man may keep a hotel and not retail spirituous liquors, or he may retail spirituous liquors and not keep a hotel. Although it is usual in some States to unite the two kinds of business, the law preserves the distinction between them, and subjects each to a tax in the shape of a license fee, and this at a rate and upon a principle altogether different. The value of the property is the basis of the tax in the one case; the nature of the business the basis in the other.

By the 43d section of the supplement, approved March 3d, 1863, no alteration is made in the act of July 1, 1862, except that the latter act prohibits the person licensed to keep a hotel from selling liquors to be taken off the premises. This is intended to prevent a hotel keeper licensed to sell liquors, as well as food and lodging, from pursuing, under cover of his license, a distinct branch of business, and entering into competition with apothecaries, merchants, or others, who may be allowed by the local law to sell, by retail, liquors to be carried off the premises, and who, like the hotel keeper, must, in such case, pay for his privilege a license fee of \$20.

The provision in both acts, that nothing contained therein "shall authorize the sale of any liquors, &c., to be drank on the premises," is no more than a legislative declaration that it is not the intention of Congress to authorize the retail of liquors. That body leaves the right to traffic in the article to be regulated by the law of the proper State. A State may prohibit the sale of spirituous liquors altogether. If, however, such sale is allowed, a tax is imposed for the support of the government in the shape of a license fee; and a retailer, whatever other business he may choose, or be permitted to pursue, in connection with his sale of spirits, must pay the twenty dollars required by the law. (Com'r Lewis, Decis. No. 104.)

#### CONCERNING STAMPS ON ADMINISTRATOR'S AND EXECUTOR'S BONDS.

A bond of an executor or administrator, taken by a judge of probate, register, or other officer taking probates of wills, or granting letters of administration, requires a fifty cent stamp.

Whether such a bond is conditioned for the faithful performance of the general duties of the office of executor or administrator, or for



the payment of collateral inheritance tax, or for the performance of any special duty required of such executor or administrator by a law of the State, makes no difference as to the necessity of a stamp. It is the duty of collectors to inquire of, and report to this office, cases in which there shall have been any neglect or omission, by executors or administrators, to place the proper stamps on their bonds; and it is made, by law, obligatory on judges of probate, and registers of wills, to exhibit to the collector, assistant collector, or other law officer of the United States, all such papers, belonging to their offices, as he may need to examine, concerning personal property or estate of which decedent may die possessed, and to which legatees, or distributees, may be entitled. The facilities, therefore, for obtaining information as to the proper use of stamps by executors or administrators are ample, and neglect of duty in this particular on the part of collectors is not excusable on the ground of the want of means for obtaining information. (Com'r Lewis, Decis No. 105.)

#### INCOME DUTY.

*Forms of Affidavit to be taken and subscribed before the Assessor or Assistant Assessor.*

STATE OF \_\_\_\_\_,

County of \_\_\_\_\_,

, ss:

\_\_\_\_\_, being sworn (or affirmed) according to law, says that he (or she) (as guardian or trustee of \_\_\_\_\_) was not possessed of, or entitled in any way to, an income to the amount of six hundred dollars in value, from any or all sources whatever, during the year 1862, liable to be assessed according to the provisions of the laws of the United States, as he (or she) solemnly and verily believes.

Sworn (or affirmed) and subscribed this \_\_\_\_\_ day of \_\_\_\_\_, A. D. 1863, before me, the subscriber, assistant assessor for division of said county.

STATE OF \_\_\_\_\_,

County of \_\_\_\_\_,

, ss:

\_\_\_\_\_, being sworn or affirmed according to law, says that he (or she) has been assessed for the year A. D. 1862, for an income duty in the \_\_\_\_\_ county (or city, or town, as the case may be) of \_\_\_\_\_, in the State of \_\_\_\_\_, and for the full amount of his (or her) income under authority of the United States, and by reason thereof is entitled to be exempt from any further income duty for said year, as he (or she) verily believes.

Sworn (or affirmed) and subscribed this \_\_\_\_\_ day of \_\_\_\_\_, A. D. 1863, before me, the subscriber, assistant assessor for division of said county.

STATE OF

County of

, ss :

, being sworn (or affirmed) according to law, says that the annexed statement contains a full and correct account of his (or her) annual income for the year A. D. 1862, which he (or she) has received, or to which he (or she) is in any manner entitled (as trustee or guardian, as the case may be, of ), and that he (or she) (as trustee or guardian as aforesaid) has not received and is not entitled to receive, from any or all sources of income together, any other for the said year besides what is set forth in said statement.

Sworn (or affirmed) and subscribed this day of , A. D. 1863, before the assistant assessor of division of said county.

The manure purchased by farmers to maintain their lands in present productive condition will be allowed as repairs, in estimating the income of farmers.

Dividends payable or paid in 1862 must be considered as part of the income for that year. Dividends declared prior to January 1, 1863, but not payable till on or after that date, must be returned as income for 1863.

The commissioner also decides that, if a husband and wife live together, and their aggregate income is in excess of \$600 per annum, they will be entitled to but one deduction of \$600. If a man and wife do not live together, but maintain separate establishments, they must be taxed separately, and will be each entitled to the \$600 deduction.

#### COIN CONTRACTS.

The following question was recently submitted to the internal revenue office from bankers in New York:

"Where gold coin or gold dust is consigned to us for sale, and drawn against by reason of payment of said drafts, the owner becomes in our debt to an amount not over the par value, and some remains unpaid for ten, twenty or thirty days, by delay of conversion, or of sales of the gold dust or coin, what is the stamp?"

This is the commissioner's reply:

"The act of March 3, 1863, defines how transactions in gold and silver coin and bullion may be carried on, declares all contracts, loans or sales not made in accordance therewith to be void, and affixes certain penalties to violations of its provisions. A fundamental requirement is that they shall be settled in three days. In the cases put by you, settlement is postponed for ten, twenty or thirty days. In so far as the first case is understood, it appears to me that the drawing against the gold alleged to be 'consigned for sale,' taken in connection with the assumed 'delay of conversion or of sale,' for ten, twenty or thirty days, changes the transaction from a simple sale, as at first assumed, into practically a loan, secured by 'pledge, deposit

or other disposition' of the coin, and requires to its legality that the contract should be in writing, or printed, signed and stamped, to an amount equal to one half of one per cent of the principal and interest, until settlement, at the rate of six per cent per annum of the sum loaned upon it. Transactions in gold are not affected by the law."

AS TO STAMPS ON DEEDS.

The commissioner has decided that, where land is sold subject to ground rent, a stamp appropriate to the consideration of the deed by which the property is conveyed is the proper one. The rights of the ground landlord and of the owner of the ground rent are regarded as two different estates, and subject to sale and conveyance, and also to stamp duties, independent of each other. It is also decided that, where a State is grantor in a deed of conveyance, the fiscal or executive office executing the instrument is not obliged to affix a stamp. The instrument, however, is not the less subject to stamp duty, which must be paid by the grantee, and the stamp must be affixed by him. When there has been neglect to affix the stamp on an instrument heretofore made, the stamp may be yet affixed by either party to the instrument, or by any using it or having an interest in the subject.

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